104TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPT. 104–632, Part 1

SAFE DRINKING WATER ACT AMENDMENTS OF 1996

JUNE 24, 1996.—Ordered to be printed

Mr. BLILEY, from the Committee on Commerce, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3604]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 3604) to amend title XIV of the Public Health Service Act (the "Safe Drinking Water Act") and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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29–006

AMENDMENT

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 10, beginning in line 16, strike section 103 and insert:

SEC. 103. LIMITED ALTERNATIVE TO FILTRATION.

Section 1412(b)(7)(C) is amended by adding the following after clause (iv):

> "(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with paragraph (8)).".

Page 20, line 1, strike "in carrying out this title".

Page 27, after line 14, insert the following new clause:

> "(vi) There are authorized to be appropriated $2,000,000 for each of fiscal years 1997 through 2001 for the studies required by this paragraph.

Page 41, line 16, strike "1997" and insert "1998".

Page 42, line 10, strike "1997" and insert "1998".

Page 43, line 13 strike "system to" and all that follows down to "mail" in line 17 and insert "system to".

Page 44, line 4, strike "a" and insert "an Environmental Protection Agency" before "toll-free".

Page 46, lines 11 and 16, strike "(ii)".

Page 46, strike lines 20 and 21 and insert:

> "(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

Page 55, line 9, strike both commas.

Page 76, line 10, after "nants" insert "selected by the State in its discretion".

Page 76, lines 11 and 12, strike "to present a substantial threat" and insert "may present a threat".

Page 79, lines 18, 19, 24, and 25, after "subsection (l)" each place it appears, insert "or section 1418(b)".

Page 86, after line 21, insert:

(2) In subsection (b), by striking the period at the end of paragraph (2) and inserting "; or" and by adding the following new paragraph after paragraph (2):

"(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.".

Page 86, line 19, strike "1 year" and insert "18 months".

Page 86, line 21, strike "section 1447(d)" and insert "section 1429(b)".

Page 89, line 19, strike "in accordance with section 1428(c)" and insert "within 6 months after receipt of notice of disapproval".

Page 90, line 18, strike "In paragraph (7)" and all that follows through "the purpose" on line 19, and insert "Paragraph (7) is amended to read as follows:

'(7) AUTHORIZATION.—For the purpose'".

Page 90, line 22, strike "1994" and insert "1997".

Page 95, line 20, strike "specified in the" and all that follows through "monitoring framework" on line 21.

Page 95, line 22, strike "and" and insert "set forth in".

Page 96, line 16, after "alternative" insert "monitoring".

Page 96, line 17, strike "to the standardized monitoring framework" and insert "under paragraph (1) of this subsection".

Page 96, line 19, strike "framework" and insert "guidelines".

Page 98, line 17, strike "the standard monitoring" and all that follows through "and under" on line 18.

Page 100, line 25, strike "subparagraph (G)" and insert "subparagraph (H)".

Page 101, line 23, strike "subsection (g)" and insert "subsection (i)".

Page 103, line 15, strike "(1)" and insert "(3)".

Page 108, line 23, strike "No portion of funds authorized to be" and all that follows through "this section or" in line 24 and insert "No funds".

Page 111, lines 11 and 15, strike "unless the State has met" and insert "if the State has not met".

Page 116, line 22, strike "of the State or of the United States".

Page 118, line 20, strike "subsection (a)" and insert "this section".

Page 119, line 16, after "grams" insert "which receive grants".

Page 126, line 7, strike "by section 1442" and insert "by the Safe Drinking Water Act Amendments of 1996".

Page 133, line 14, after the first period insert "With the exception of Biomedical research, nothing in this Act shall affect or modify any authorization for research and development under this Act or any other provision of law.".

Page 134, line 15, after "system" insert ", including projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71".

Page 134, line 19, strike "and shall include" and all that follows through "organizations" on page 135, line 7.

Page 135, line 9, strike "these".

Page 135, lines 22 and 23, strike "such sums as are necessary".

Page 135, line 24, strike "including".

Page 136, line 2, strike "(2)" and insert "(1)".

Page 143, line 1, strike "FUNDING.—The" insert "FUNDING.—There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this section. To the extent funds under this section are not fully appropriated, the".

Page 143, line 4, strike 'this section and" and insert "this section. The Administrator".

Page 143, line 6, strike "There are" and all that follows down through line 8.

Page 145, strike "(A) IN GENERAL.—".

Page 145 and 146, strike clauses (i), (iv), (v), and (vi) and redesignate the remaining clauses accordingly.

Page 147, strike lines 3 through 11.

Page 150, line 21, after "is" insert "not later than".

PURPOSE AND SUMMARY

H.R. 3604 amends Title XIV of the Public Health Service Act (generally known as the "Safe Drinking Water Act" and hereinafter referred to as "the Act") to provide for: (1) revisions to the procedures, process, and criteria for regulating contaminants in drinking water to protect the public health; (2) improvements in existing enforcement provisions; (3) provisions to promote cost-effectiveness in new drinking water regulations; (4) increased flexibility for water suppliers where consistent with public health; (5) special programs to help small public water systems meet the requirements of the Act; (6) new programs to promote the proper operation of public water system; (7) substantial new Federal financial and technical assistance to help water suppliers meet the requirements of the Act and to help States in carrying out programs under the Act; (8) refinements and new programs to improve protection of public health from drinking water contamination. A brief summary of the major provisions follows:

Selection of New Contaminants. The bill eliminates the "25 every 3 years" mandate and gives the Environmental Protection Agency (EPA) the authority to decide which contaminants to regulate based on several criteria, including whether the contaminants "present the greatest public health concern."

Standard-Setting. The bill requires EPA to publish an analysis of health risk reduction benefits and costs associated with new or revised national drinking water standards. The bill also provides the Administrator with the authority to use the cost-benefit analysis to set a level that maximizes health risk reduction benefits at a cost that is justified by the benefits based on the best-available, peer-reviewed science.

Disinfectant By-Products (DBPs). The bill would allow for "risk-risk" analysis to be applied to the DBP rulemaking and allow the EPA in Stage II to use the same considerations used in the Stage I rulemaking (e.g., risk, cost, affordability, feasible technology, and health benefits).

Other Contaminants. Arsenic. The bill requires EPA to study the health risks associated with exposure to low levels of arsenic and promulgate a national drinking water standard by January 1, 2001. *Radon.* The bill requires that EPA's current radon proposal (which would set a standard of 300 picocuries/liter) be withdrawn and requires that EPA promulgate a radon standard under the new

standard setting provisions established by the bill, taking into account risks from other sources of radon in the environment. *Sulfate.* The bill would require additional study to determine a reliable dose-response level for sulfate and allow EPA to promulgate a national standard.

Public Notification. The bill modifies the public notification requirements of current law, reducing from 14 days to 24 hours the time that a public water system has to notify the public of violations which have the potential to have serious adverse effects on human health.

Consumer Right-To-Know. The bill requires an annual report to consumers on the source of water provided, contaminant levels, and brief statements on health concerns.

State Revolving Loan Fund (SRF). The bill creates a State revolving loan fund (SRF) for drinking water systems (authorized at $1 billion per year through Fiscal Year 2003). SRF funds are to be used for providing grants and loans to "significantly further the health protection objectives" of the Act.

Source Water Assessment. The bill creates a new program under which States exerting primacy must conduct an assessment of source water areas and, to the extent practical, identify the origins of any contaminants within each delineated area.

Monitoring Flexibility. The bill provides for monitoring relief where a public water system can show that a contaminant is not present in a drinking water supply or, if present, it is reliably and consistently below national drinking water standards.

Small System Technology. The bill requires that EPA identify feasible technologies that are available for small public water systems serving between 25 and 10,000 people. The bill separately provides $10,000,000 per year for technical assistance.

Capacity Development. States must ensure that new and existing water systems have the technical, financial, and managerial capacity to comply with the Act.

Operator Certification. The bill requires EPA to promulgate regulations to specify minimum standards for operator certification, but presumes that preexisting State programs are substantially equivalent to EPA regulations.

Variances and Exemptions. The bill provides for a variance from a drinking water standard for systems serving under 3,300 people on the condition that the system install the best available affordable technology (BAAT). The bill also requires a review of a system's technical, financial, and managerial capabilities before issuing an exemption.

Bottled Water. The bill requires the promulgation of bottled water standards no less protective of public health than standards applied to public water systems.

Estrogenic Substances Screening Program. The bill adopts the D'Amato amendment with modifications to improve the "workability" of the measure. The bill requires the Administrator of EPA (the Administrator), within 2 years, to develop a validated screening program to determine whether substances may have an effect in humans that is similar to the effect produced by naturally occurring estrogen and authorizes appropriate action under existing law.

The Committee stresses that the purpose of the legislation is to help make more effective and more cost-effective Federal regulation of drinking water and to help small communities pay for improvements to their public water systems, while ensuring that health protections are maintained or improved. The bill does not amend or affect the Federal Water Pollution Control Act, provide new research and development authorities, or change existing research and development authorities.

BACKGROUND AND NEED FOR LEGISLATION

BACKGROUND

The Safe Drinking Water Act (SDWA) has developed as a partnership between States, localities, and the Federal government. The responsibility for providing safe drinking water was first and primarily a State and local responsibility. The first State board of health was established in Massachusetts in 1869, largely in response to serious public health risks from drinking water. For example, during the decade 1880–1890, the average typhoid mortality for populations in 47 American cities was 58 per 100,000. Through the development and implementation of various treatment technologies, including disinfection, the rate for an expanded list of 78 cities had fallen to 20.5 per 100,000 by 1910. In 1938, the rate had fallen further to 0.67 deaths per 100,000 population.[1]

The Federal government first became involved in the provision of safe drinking water with the establishment of the Public Health Service Hygienic Laboratory in 1901.[2] The purpose of the laboratory was to investigate infectious and contagious diseases. In 1914, the U.S. Public Health Service, under section 361 of the Public Health Service Act, promulgated 16 Drinking Water Standards (DWSs) including arsenic, copper, lead, selenium, and total dissolved solids. The DWSs applied only to water purveyed to customers of interstate carriers. Federal enforcement authority was limited only to those systems from which interstate carriers obtained potable water (approximately 650 of 30,000 systems).[3] However, States and municipalities began to follow the DWSs, and courts began to recognize the DWSs as the legal standard for safe drinking water. The DWSs were revised in 1925, 1946 and 1962.

In 1969, the Public Health Service undertook a comprehensive survey of the quality of drinking water provided to the American public. The survey, published in 1970 as the Community Water Supply Study (CWSS),[4] found that of the 969 water systems surveyed, only 59 percent were delivering water that satisfied all the DWSs.[5] The study also found that 56 percent of the water treatment facilities had a major physical deficiency.[6] The results of the CWSS made it clear that States were not able to provide the nec-

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[1] G. William Page, "Water and Health," Public Health and the Environment: The United States Experience, at 110 (Michael R. Greenberg, PH.D. ed., 1987).
[2] Act of March 3, 1901, ch. 31 Stat. 1137 (1901).
[3] Thomas J. Douglas, "Safe Drinking Water Act of 1974—History and Critique," Environmental Affairs, vol. 5:501, n.28 (1976).
[4] Id. note 3, at 501.
[5] Id. note 39, at 507.
[6] Id. note 41, at 507.

essary financial and technical assistance to public water systems to ensure safe drinking water.

The Safe Drinking Water Act of 1974

In 1970, Congress transferred responsibility for implementation and enforcement of the DWSs from the Public Health Service to the newly created Environmental Protection Agency. On December 17, 1974, President Gerald Ford signed into law the Safe Drinking Water Act. The purpose of the Safe Drinking Water Act was to assure that the water supply systems serving the public meet minimum national standards to protect consumers from harmful contaminants. The Act directed EPA to develop the following: (1) "national primary drinking water regulations" (NPDWRs) that establish numerical "maximum contaminant levels" (MCLs) or "treatment techniques;" (2) underground injection control regulations to protect underground sources of drinking water; and (3) groundwater protection grant programs for the administration of sole source aquifer demonstration projects and wellhead protection area programs. The Act permitted these activities to be implemented by the States.

Amendments to the Safe Drinking Water Act of 1974

The Safe Drinking Water Act was amended in 1977, 1979, and 1980. The 1977 amendments to the Act were adopted to provide continuing, increasing assistance to States, and to permit more time for States to achieve primary enforcement responsibility. Specifically, the amendments extended authorization for two additional years, promoted training of drinking water personnel, and provided for additional studies.

The 1979 amendments to the Act authorized appropriations for three fiscal years for the following EPA activities: abatement and control of contamination of drinking water sources; assistance to States in creating and sustaining public water systems supervision programs; and creation and maintenance of underground water source protection programs.

In 1980, Congress amended the Act to adjust deadlines, to improve Federal-State coordination, or to modify program coverage. Specifically, these amendments provided for the following: extended for three years the State's power to grant temporary case-by-case exemptions from the interim primary drinking water regulations; proposed an alternative means for States to receive primary enforcement authority to regulate underground injection related to oil and gas production and recovery; deleted the underground storage of natural gas from the underground injection program; authorized EPA to make grants to a single public water system for the purpose of developing and demonstrating a new or improved means of meeting State turbidity standards that are stricter than standards under the Federal SDWA; and made various technical changes in the Act.

The 1986 amendments to the Safe Drinking Water Act

Twelve years after its enactment, the Safe Drinking Water Act had not been fully implemented. Members of Congress were especially critical of EPA's failure to establish regulations for new con-

taminants. For example, from 1974 to 1986, only 1 of 22 interim regulations had been revised and no new regulations had been promulgated since 1976.

In 1986, Congress adopted amendments to the Safe Drinking Water Act. President Reagan signed these amendments into law on June 19, 1986.

The 1986 amendments made significant changes to the Act. The 1986 amendments included the following:

Required EPA to establish national primary drinking water regulations for a specified list of 83 contaminants within three years (by June 1989);

Directed EPA to issue regulations for at least 25 additional contaminants every three years thereafter;

Required EPA to review every contaminant regulation at least once every three years;

Directed EPA to mandate filtration and disinfection, or steps equally protective of water supplies, as appropriate treatment techniques for all systems to remove contaminants including contaminants for which national standards had not been set;

Authorized programs to provide technical and financial assistance to small systems for conducting monitoring and implementing treatment techniques;

Provided new programs to protect groundwater resources;

Directed EPA to promulgate rules for monitoring wells that inject wastes below a drinking water source; and

Strengthened EPA's enforcement authority for violations of both drinking water standards and underground injection control requirements by adding administrative enforcement orders and penalties, increasing civil penalties, and simplifying the process EPA used to take enforcement action where States with primary enforcement responsibility have failed to take appropriate action.

The 1986 amendments represent the last time that the SDWA was substantially amended and reauthorized.

The 1988 amendments to the Safe Drinking Water Act

The SDWA was most recently amended in 1988 with the enactment of the Lead Contamination Control Act which added a new Part F to the SDWA. Part F was intended to reduce exposure to lead in drinking water by requiring the recall of lead-lined water coolers, and requiring EPA to issue a guidance document and testing protocol to assist schools and day care centers in identifying and correcting lead contamination in school drinking water. However, this Act did not affect the establishment of drinking water standards for public water systems.

NEED FOR THE LEGISLATION

Over the past several years, the Committee has received numerous reports and voluminous testimony supporting the need for: a more streamlined and flexible approach to controlling drinking water contamination consistent with continued protection of the public health; flexibility in monitoring of contaminants; new financial assistance to help State and local governments comply with the requirements of the Safe Drinking Water Act; better training of

public water system operators; and attention to whether public water systems have the capacity to operate in compliance with the Act.

As required by the 1986 amendments to the Act, EPA has promulgated standards for more than 80 contaminants in drinking water and is attempting to comply with the requirement to regulate 25 additional contaminants every three years. These mandates have imposed significant burdens at the State, local and Federal level, and have led to questions about whether the Act is focused on the most significant risks to public health.

While increasing flexibility under the Safe Drinking Water Act, it is also apparent that the Act must maintain a public health focus. In recent years, EPA and others, including EPA's Science Advisory Board, have done several studies comparing the relative risk to public health from various "environmental" sources. The risks attributed to drinking water have always ranked high in these studies relative to other health threats addressed by EPA programs. A number of serious contaminants remain unregulated and other contaminants are in serious need of review.

Using a resource-needs model developed by the EPA and the Association of State Drinking Water Administrators, the EPA has estimated, that the gap between States' Safe Drinking Water Act program needs and the available resources was approximately $162 million in 1993.[7] Increasingly, States have indicated that they are unable to implement core elements of their programs effectively, much less the new and more stringent requirements of the 1986 Safe Drinking Water Act. While the Safe Drinking Water Act authorizes EPA to pay up to 75 percent of the costs of administering State programs, the EPA contribution has been substantially less. On the basis of EPA Fiscal Year 1990 data, the Federal share of State program costs averaged 45 percent and accounted for less than 25 percent in nine States.[8]

The 1986 amendments to the Safe Drinking Water Act also have imposed a significant burden on public water systems. In 1993, EPA estimated annual compliance costs of water systems of $1.48 billion. It is estimated that these costs could more than triple if proposed rules are passed in their current form.[9] At the Subcommittee's hearing on January 31, 1996, Mr. Ronald Dungan, President of the National Association of Water Companies, made the following observation:

> Customers will pay for safe drinking water * * * [b]ut are not willing to pay for complying with drinking water rules that provide only marginal increases in health protection at significant costs, particularly when there is so much uncertainty concerning both the occurrence and real threat to public health of many contaminants.[10]

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[7] United States Environmental Protection Agency, Officer of Water, "Technical and Economic Capacity of States and Public Water Systems to Implement Drinking Water Regulations: Report to Congress," EPA, Office of Water (810–R–93–001), at i (1993).

[8] United States General Accounting Office; "Drinking Water: Widening Gap Between Needs and Available Resources Threatens Vital EPA Program" (GAO/RCED–92–184), at 6 (1993).

[9] "The Safe Drinking Water Act: A Case Study of an Unfunded Mandate" (CBO 9 1995).

[10] Testimony of Ronald Dungan, President of the National Association of Water Companies, before the Subcommittee on Health and Environment, House Committee on Commerce, on January 31, 1996.

Increased compliance costs have the most dramatic effect on small public water systems. EPA has found that for systems serving 25–100 persons, the average incremental household costs for compliance with the Safe Drinking Water Act are $145 as compared to $12 for systems serving between 100,000 and 500,000 persons.[11] EPA has estimated that 68 percent of total compliance costs for drinking water regulations being implemented between now and the year 2000 will fall on the 90 percent of systems which serve fewer than 3,300 people.[12] These increased costs make it more difficult for small public water systems to comply with the requirements of the Act. EPA recently found that 77 percent of "significant noncompliers" were systems serving fewer than 500 persons.[13]

There is a concern among many that the Act is not sufficiently focused on protecting the public from contaminants in drinking water that pose the most significant risks to human health. At a January 31, 1996, hearing conducted by the Subcommittee on Health and the Environment, EPA Assistant Administrator Robert Perciasepe stated:

> The current requirement to regulate 25 new contaminants every 3 years needs to be replaced with a scientifically defensible, risk-based approach. The current regulatory treadmill dilutes limited resources on lower priority contaminants, and as a consequence may hinder more rapid progress on high priority contaminants.[14]

Most of the focus of EPA regulation under the 1986 amendments to the Act has been on chemical substances. According to a number of critics, less emphasis has been placed on the regulation of microbial contaminants that pose more immediate health risks ranging from gastrointestinal disorders to cholera and typhoid. Despite the implementation of the Surface Water Treatment Rule, a number of serious waterborne disease outbreaks have occurred, including an outbreak of cryptosporidium contamination in Milwaukee, Wisconsin, which killed more than one hundred individuals and caused illness in as many as 400,000 others.

Others are concerned that the Act does not provide sufficient flexibility to States and public water systems to meet particular geographical and other circumstances. Small public water systems in particular have faced increased monitoring costs under the 1986 amendments to the Act. According to a representative of the National Rural Water Association:

> Seasonal monitoring may be necessary in surface water, the dynamics of groundwater is significantly different * * * In small communities 90% of water systems rely on groundwater. Small communities are confused because

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[11] EPA 810–R–93–001, supra, at 66.
[12] Id. at 5.
[13] Id. at 116.
[14] Testimony of Robert Perciasepe, EPA Assistant Administrator Office of Water, before the Subcommittee on Health and Environment, House Committee on Commerce, on January 31, 1996.

> there is negligible benefit to monitoring quarterly even though the cost is significant.[15]

A number of commentators have identified the need for the establishment of a revolving loan fund program for drinking water projects necessary to comply with the mandates imposed by the Safe Drinking Water Act. Such a fund, capitalized with Federal funds to finance loans and other types of financial assistance to public water systems, would assist such systems in complying with the increasingly complex and expensive requirements of the Act. Under the SRF program, EPA would provide grants to capitalize the States' funds while the States identify investment priorities and manage the loan program. As loans are repaid, the fund is replenished, and loans can be made for other eligible Safe Drinking Water Act compliance projects. According to EPA Assistant Administrator Robert Perciasepe:

> The drinking water State Revolving Fund (SRF) may be one of the most important changes in the nation's drinking water program contemplated by Congress since passage of the original Act in 1974. An SRF is critical to helping States assist communities in upgrading treatment facilities to ensure that they can provide safe drinking water to the public.[16]

This legislation attempts to address these concerns. Following are letters from several organizations representing the diversity of support for the legislation.

JUNE 11, 1996.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We write to express our appreciation for your hard work in developing H.R. 3604, the bipartisan bill to reauthorize the Safe Drinking Water Act reported by the Health and Environment Subcommittee on June 6. We urge the Commerce Committee and the House to approve that bill as expeditiously as possible to keep the legislative process moving forward.

First and foremost, H.R. 3604 improves the protection of public health. It represents a signficant advance over current law and over the bill approved by the House in 1994. Among other significant changes, the measure approved in subcommittee eliminates the requirement for the Environmental Protection Agency to regulate 25 new contaminants every three years and instead forcuses attention on contaminants that actually occur or are likely to occur in drinking water. The bill improves the current standard setting process by allowing EPA to balance risks and to consider costs and benefits in setting more new standards. It also addresses the technology needs of small water systems, allows some relief from mon-

[15] Testimony of Steve Levy, Executive Director of Maine Rural Water Association on behalf of the National Rural Water Association, before the Subcommittee on Health and Environment, House Commerce Committee, on January 31, 1996.

[16] Testimony of Robert Perciasepe, EPA Assistant Administrator Office of Water, before the Subcommitee on Health and Environment, House Committee on Commerce, on January 31, 1996.

itoring requirements when contaminants do not occur in the drinking water in a given commmunity, and authorizes a new state revolving fund for much needed investments in drinking water infrastructure. These changes and others are important improvements over the current law.

As you know, the bill also includes several expanded federal authorities and new mandates on states, local governments, and water suppliers about which we have some concerns. We await the Congressional Budget Office analysis of the costs of these mandates.

We will continue to work with you and your colleagues in the Senate to assure that the Safe Drinking Water Act reauthorization bill is enacted into law this year, providing the public with both safe and affordable drinking water.

Sincerely,

Gov. Tommy G. Thompson, Chairman, Natinal Governor's Association; Gregory S. Lashutka, President, National League of Cities; Norman B. Rice, President, The U.S. Conference of Mayors; Douglas R. Bovin, President, National Association of Counties; James J. Lack, President, National Confernece of State Legislatures; David L. Tippin, President, Association of Metropolitan Water Agencies; Karl F. Kohlhoff, President, American Water Works Association; Ronald S. Dungan, President, National Association of Water Companies; James K. Cleland, President, Association of State Drinking Water Administrators; Fred N. Pfeiffer, President, National Water Resources Association.

CAMPAIGN FOR SAFE AND
AFFORDABLE DRINKING WATER,
June 21, 1996.

Hon. THOMAS BLILEY,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: We are writing to thank you for your leadership in negotiating and achieving unanimous Committee passage of the "Safe Drinking Water Act of 1996," H.R. 3604, and to express our appreciation for your attention to our views in the legislative process. We do not agree with all of the decisions that the Committee reached, but we do believe that our concerns received full and fair consideration.

Although we did not support S. 1316 as it was passed by the Senate, we pleased to be able to endorse H.R. 3604. We support it on balance because it provides a number of important public health protections, including:

The right-to-know provision, which requires water systems to issue drinking water quality reports to consumers;

Prevention provisions, including an improved source water assessment, operator certification, and capacity development sections;

A reasonable radon provision that establishes a rational process for setting a standard for this important cancer-causing contaminant;

More workable small system provisions. Small system exemptions and variances would be limited to water systems serving less than 3,300 customers. These provisions would encourage and facilitate compliance rather than needlessly waiving public health protection requirements;

Improved monitoring provisions for unregulated contaminants, tying monitoring relief to source water assessments, and requiring a disease monitoring study.

We continue to have, of course, objections to some of the language included in H.R. 3604, particularly the provisions affecting citizen suits, standard setting (although we recognize that the House language improves upon the Senate proposal), source water program funding, and information gathering. Accordingly, our continued support for H.R. 3604 will be predicted upon maintaining the important improvements the Commerce Committee adopted.

Sincerely,

20/20 Vision; Gary Rose, Aids Action Council; Susan Polan, American Cancer Society; Ted Morton, American Oceans Campaign; Dr. Fernando Treviño, American Public Health Association; Beth Norcross, American Rivers; Michael Hirshfield, Ph.D., Chesapeake Bay Foundation; Roberta Hazen-Aranson, Childhood Lead Action Project, RI; Winonah Hauter, Citizen Action; Mary Clark, Citizen Action of New York; Paul Schwartz, Clean Water Action; Ginny Yingling, Clean Water Action Alliance of Minnesota.

Beth Blissman, Lorain Grenado, Steering Committee, COPEEN, Colorado People's Environmental and Economic Network; Diana Neidle, Consumer Federation of America; Donald Clark, Cornicopia Network of New Jersey, Inc.; James K. Wyerman, Defenders of Wildlife; Phil Clapp, Environmental Information Center; Brian Cohen, Environmental Working Group; Velma Smith, Friends of the Earth; Joanne Royce, Government Accountability Project; Tom FitzGerald, Kentucky Resources Council; Jan Conley, Lake Superior Greens; Judy Pannullo, Long Island Progressive Coalition; Dr. Edward B. Smart, Metropolitan Ecumenical Ministry; Aisha Ikramuddin, Mothers & Others; Mary Marra, National Wildlife Federation.

Cleo Manuel, National Consumers League; Erik Olson, Natural Resources Defense Council; Rev. Albert G. Cohen, Network for Environmental & Economic Reponsibility; Amy Goldsmith, New Jersey Environmental Federation; Bruce R. Carpenter, New York Rivers United; Todd Miller, North Carolina Coastal Federation; Debbie Ortman, Northern Environmental Network; Alfonso Lopez, Physicians for Social Responsibility; Rabbi David Sapperstein, Religious Action Center; Alison Walsh, Save the Bay,

Rhode Island; Mark Pelavin, Union of American Hebrew Congregations; Daniel Rosenberg, U.S. PIRG; Parker Blackmun, WashPIRG; Robert Hudek, Wisconsin Citizen Action.

CLEAN WATER COUNCIL,
Arlington, VA, May 29, 1996.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, House Commerce Committee,
Washington, DC.

DEAR MR. CHAIRMAN: The undersigned members of the Clean Water Council represent employers and independent professionals who finance, design, construct, and maintain drinking water delivery and treatment facilities. We urge you to support timely action on legislation to reauthorize the Safe Drinking Water Act and create a State Revolving Loan Fund (SRF) Program to help states finance capital investment and improvements in drinking water infrastructure.

The proposed drinking water SRF program would be an efficient and cost-effective means of providing capital for the construction of drinking water delivery and treatment facilities. The need for the program is well documented. Growing demands on our aging and sometimes nonexistent infrastructure often force cash-strapped communities to patch the leaks and stretch the infrastructure to unsafe limits for lack of financial resources. Water main breaks, boil water orders, and dry fire hydrants are routine occurrences and pose unacceptable risks to our families. A 1990 report published by the Clean Water Council demonstrated a $2-billion annual drinking water infrastructure deficit above and beyond what the states themselves are expected to invest.

Furthermore, clean water infrastructure is essential to environmental protection, private sector productive and profitability, and job creation. Half of the estimated 57,000 jobs created for every $1 billion invested are permanent jobs. Clean water construction, rehabilitation, and maintenance also increase the local tax base. A dependable network of pipes and treatment facilities attracts new homes and businesses to a community. This is an area where environmental protection and economic growth go hand-in-hand.

Your efforts to move safe drinking water legislation this year are an investment in America's clean water future.

Sincerely,

The Clean Water Council:

American Consulting Engineers Council, American Portland Cement Alliance, American Road and Transportation Builders Association, American Society of Civil Engineers, American Subcontractors Association, Associated Equipment Distributors, Associated General Contractors of America, Construction Industry Manufacturers Association, Council of Infrastructure Financing Authorities, Equipment Manufacturers Institute, International Spiral Rib Pipe Association, National Aggregates Association, National Constructors Association, National Precast Concrete

Association, National Ready Mixed Concrete Association, National Stone Association, National Utility Contractors Association, Uni-Bell PVC Pipe Association, Water and Sewer Distributors of America, Water and Wastewater Equipment Manufacturers Association.

The Committee has received the following correspondence on the important issues of the regulation of disinfectants and disinfection byproducts.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 2, 1996.

Hon. HENRY A. WAXMAN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WAXMAN: The American Medical Association (AMA) understands that the Health and Environment Subcommittee may soon consider the Reauthorization of the Safe Drinking Water Act. Specifically, the AMA is concerned about language in the draft legislation that would exempt disinfection byproducts (DBPs) of water chlorination from the cost-benefit analysis.

Consistent with our policy, the AMA urges caution in changing current drinking water regulations without a through evaluation of the risks, costs, and benefits of using chlorine or alternative disinfectants in the water purification process. Such an evaluation is essential considering that much of the increase in the lifespan of Americans, from about 45 years in the early 1900s to about 76 at present, and the decrease in infant mortality, from about 100 per 1000 in the early 1900s to 8.2 in 1992, is attributed to public health measures, such as the chlorination of drinking water.

In June 1994, the AMA House of Delegates passed a resolution encouraging the EPA to base its evaluation of health and environmental risks from exposures to organic compounds, industrial compounds, or manufacturing processes that include or involve chlorine on reliable data specific to the compounds or processes. With potential human health risks and estimated price tag of nearly $4 billion a year, the AMA believes that any rule revisions affecting our nation's drinking water should be based on sound scientific knowledge. Therefore, we would urge the Subcommittee to reconsider its position on this provision, instead allowing the EPA to use cost/benefit analysis when setting standards to control DBPs and other contaminants regulated under the Safe Drinking Water Act.

Thank you for your attention to this important public health matter.

Sincerely,

P. JOHN SEWARD, M.D.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, May 17, 1996.

Hon. HENRY WAXMAN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WAXMAN: Thank you for your May 10, 1996 letter to Environmental Protection Agency (EPA) Administrator Carol Browner requesting a response to charges made in a May 2, 1996 letter you received from Dr. P. John Seward, Executive Vice President of the American Medical Association (AMA). In this letter, Dr. Seward expressed, on behalf of the AMA, concern about language in a staff draft of the House Commerce Committee's Safe Drinking Water Act (SDWA) reauthorization bill affecting EPA's proposed drinking water standard for disinfectants and disinfection byproducts (D/DBPs). We appreciate the opportunity to correct the substantial misunderstanding reflected in this letter of both EPA's proposed rule for D/DBPs and the Agency's policies and actions to reduce health risks from waterborne pathogens.

EPA has for over two decades strongly supported the vital role of drinking water disinfection for protecting public health from microbial risks. In 1989, EPA issued a rule requiring surface water and certain ground water systems to disinfect. A high priority of EPA's drinking water program is to complete work, in consultation with representatives of affected state and local governments and water utilities, on a proposal to expand disinfection rules to cover other ground water supplies that may pose unacceptable microbial risks.

The control of microbial contaminants is complicated, however, because byproducts of commonly used disinfectants (such as chlorine and chloramines) may pose serious health risks. Due to the scientific complexity of maintaining or strengthening microbial control while simultaneously controlling risks from disinfection byproducts, EPA convened in 1992 a negotiated rulemaking involving public health officials, representatives of states, local governments, water utilities, and environmental and community groups. The negotiators agreed on a fundamental precept of the negotiation: that while new safeguards to reduce the risk from D/DBPs were warranted, any such safeguards must fully maintain or improve protection against waterborne pathogens. The negotiators subsequently agreed that any D/DBP rules must be accompanied by affordable measures to strengthen protection from Cryptosporidium, which is resistant to many conventional disinfectants such as chlorine.

It is important to understand the process, endorsed in the negotiated rulemaking, under which these regulations are being developed. Consistent with the negotiated agreement, EPA proposed in July 1994 that the standards for D/DBPs and microbial contamination be addressed in two Stages. In Stage I, the standard for Total Trihalomethanes (TTHMs) has been proposed to be reduced from the current level of 100 ppb to 80 ppb, and a new standard for haloacetic acids proposed to be set at 60 ppb.

Before this Stage I Rule (and an accompanying rule to ensure microbial protection) can be finalized, however, many water systems and EPA will engage in a massive effort to collect and analyze new nationwide data on D/DBP and microbial occurrence,

human exposure, and potential treatments. This effort, included in the terms of the negotiated agreement, was formally launched with EPA's promulgation of an Information Collection Rule (ICR) this month. In addition, EPA is embarking jointly with the American Water Works Research Foundation and other organizations on a multi-year, multi-million dollar research initiative on D/DBPs and Cryptosporidium, with a substantial emphasis on risks and health effects. These efforts will greatly improve the scientific basis for future actions and thus meet the objective of the AMA's House of Delegates' 1994 Resolution concerning improved science, as described by Dr. Seward.

Under the negotiated agreement, the levels proposed for Stage I may be changed, if appropriate, in the final Stage I rule. The Stage I levels do not appear to be contentious; even the Chlorine Chemistry Council acknowledged in October 1994 that "most utilities will be able to achieve the 80-ppb MCLs with moderate modifications to their systems." While the proposed Stage II numbers of 40 ppb (for TTHMs) and 30 ppb (for haloacetic acids) are considerably more stringent, they do not represent a final agreement by the stakeholders or EPA. The negotiators agreed that the negotiations would recommence after the IRC results and complementary research become available. A new Stage II proposal will be made, by agreement among the negotiators, to reflect those results. Thus, EPA's implementation of the terms of the agreement signed two years ago assure that Stage II will be founded on the most sound scientific base obtainable.

When considering the Stage II rule, the regulatory negotiation will continue to be grounded, as it was in Stage I, in the principle that any rule to control D/DBP risks must fully maintain protection against microbial risk (if necessary, through a simultaneous microbial rule). These negotiated rules would be based on technology which is both practically available and affordable for large systems. (For small water systems, all three SDWA bills approved by the House or the Senate in the 103rd and 104th Congress require EPA to list approved technologies specifically affordable for small systems.) Costs and benefits were extensively analyzed and addressed in a manner satisfactory to all signatories of the agreement. Thus, there is no basis for concern that this D/DBP-microbial rulemaking process will fail to maintain or improve protection against microbial contaminants, or result in unaffordable costs to public water systems.

Moreover, it is important to understand that the negotiators and EPA have agreed to governing principles (for developing the D/DBP-microbial rules) which ensure greater certainty that protection against waterborne disease will be maintained or improved, at an affordable cost, than would a cost-benefit framework. Potential weakening of such protection is not categorically ruled out within the cost-benefit framework advocated by Dr. Seward.

Congress has repeatedly recognized the great complexity and public health implications of the D/DBP-microbial rules, as well as the fragility of the balance reached in the negotiated rulemaking. In approving SDWA reauthorization bills—S. 2019 and H.R. 3392 in the 103rd Congress, and S. 1316 in the 104th Congress—each chamber of Congress has sought to preserve that balance, as well

as the strong and affordable protections for public health that the balance provides. Any provision disturbing the negotiated agreement could lead to delay in additional, much-needed public health protections.

Thank you for the opportunity to respond to the concerns expressed in Dr. Seward's letter on this vital issue. If I can be of further assistance in this matter, please do not hesitate to contact me.

Sincerely,

ROBERT PERCIASEPE, *Assistant Administrator.*

HEARINGS

On January 31, 1996, the Subcommittee on Health and the Environment held a hearing on the Priorities for the Reauthorization of the Safe Drinking Water Act. Testimony was given by twelve witnesses, including: The Honorable Gerald Solomon and the Honorable Gerald D. Kleczka, Members of the U.S. House of Representatives; the Honorable Robert Perciasepe, Assistant Administrator, Office of Water, U.S. Environmental Protection Agency; Mr. Randy Wood, Director of the Nebraska Department of Environmental Quality, on behalf of the National Governors Association; The Honorable Jeffrey Wennberg, Mayor of Rutland, Vermont, on behalf of the National League of Cities; The Honorable Larry Mancini, Deputy Mayor of Lake George, New York; Dr. David Spath, Chief, Division of Drinking Water and Environmental Management for the State of California, on behalf of the Association of State Drinking Water Administrators; Mr. Karl Kohlhoff, Assistant Utilities Manager for the Utilities Department of Mesa, Arizona, on behalf of the American Water Works Association; Mr. David Tippin, Director, Tampa Water Department, Tampa, Florida, on behalf of the Metropolitan Water Agencies; Mr. Ronald Dungan, Senior Vice President of the United Water Management and Service Company of Wayne, Pennsylvania, on behalf of the National Association of Water Companies; Mr. Steve Levy, Executive Director of the State of Maine Rural Water Association on behalf of the National Rural Water Association; and Mr. Greg Wetstone, Legislative Director, Natural Resources Defense Council, Washington, D.C.

In the 103rd Congress, the Committee considered a predecessor bill H.R. 3392. The Subcommittee on Health and the Environment held a hearing on drinking water contamination problems, resources shortfalls in the effort to carry out the Safe Drinking Water Act, and on H.R. 1701 (legislation authorizing appropriations for State revolving funds) on April 19, 1993. Testimony was provided by Martha G. Prothro, Acting Assistant Administrator for Water, U.S. Environmental Protection Agency; Paul W. Nannis, Commissioner of Health, City of Milwaukee; Peter F. Guerrero, Associate Director, Environment Protection Issues, General Accounting Office, Washington, D.C.; Dennis D. Juranek, DVM, Chief, Epidemiology Activity, Centers for Disease Control and Prevention, Atlanta, Georgia; David Tippin, Vice President, Association of Metropolitan Water Agencies, Director, Tampa Water Department, Tampa, Florida; William F. Parrish, Program Administrator, Maryland Water Supply Program, on behalf of the Association of State Drinking Water Administrators, Dundalk, Maryland; Erik Olson, Senior Attorney, Natural Resources Defense Council, Washington, D.C.;

James S. McInerney, President, Bridgeport Hydraulic Company, on behalf of the National Association of Water Companies, Washington, D.C.; Kathleen Stanley, Executive Director, Rural Community Assistance Program, Leesburg, Virginia; John H. Montgomery, Association Representative, National Rural Water Association, Washington, D.C.; and Robert L. Wubbena, Vice President, American Water Works Association, Washington, D.C.

On May 10, 1991, the Committee's Subcommittee on Health and the Environment held a hearing on progress in carrying out the Safe Drinking Water Act's provisions for control of drinking water contamination. Testimony was provided by the Honorable William K. Reilly, Administrator, U.S. Environmental Protection Agency; Donald E. Elliot, General Counsel, U.S. Environmental Protection Agency; and LaJuana Wilcher, Assistant Administrator for Water, U.S. Environmental Protection Agency.

COMMITTEE CONSIDERATION

On June 6, 1996, the Subcommittee on Health and Environment met in open markup session and considered a Subcommittee Print entitled the "Safe Drinking Water Act Amendments of 1996". The Subcommittee approved the introduction of a clean bill for Full Committee consideration, by a rollcall vote of 24 yeas to 0 nays. H.R. 3604 was introduced in the House as the clean bill on June 10, 1996.

On June 11, 1996, the Full Committee met in open markup session and ordered H.R. 3604, the Safe Drinking Water Act Amendments of 1996, reported to the House, as amended, by a rollcall vote of 42 yeas to 0 nays, a quorum being present.

ROLLCALL VOTES

Clause 2(l)2(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The following are the recorded votes on the motion to report H.R. 3070 and on amendments offered to the measure, including the names of those Members voting for and against.

ROLLCALL VOTE NO. 131

Bill: H.R. 3604, Safe Drinking Water Act Amendments of 1996.

Motion: Motion by Mr. Bliley to order H.R. 3604 reported to the House, as amended.

Disposition: Agreed to, by a rollcall vote of 42 yeas to 0 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley	X			Mr. Dingell	X		
Mr. Moorhead	X			Mr. Waxman	X		
Mr. Tauzin	X			Mr. Markey	X		
Mr. Fields	X			Mr. Collins	X		
Mr. Oxley				Mr. Hall	X		
Mr. Bilirakis	X			Mr. Richardson	X		
Mr. Schaefer	X			Mr. Bryant	X		
Mr. Barton	X			Mr. Boucher	X		
Mr. Hastert				Mr. Manton	X		
Mr. Upton	X			Mr. Towns	X		
Mr. Stearns	X			Mr. Studds	X		

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Paxon				Mr. Pallone	X		
Mr. Gillmor				Mr. Brown	X		
Mr. Klug	X			Mrs. Lincoln			
Mr. Franks	X			Mr. Gordon	X		
Mr. Greenwood	X			Ms. Furse	X		
Mr. Crapo	X			Mr. Deutsch			
Mr. Cox	X			Mr. Rush			
Mr. Deal	X			Ms. Eshoo	X		
Mr. Burr	X			Mr. Klink	X		
Mr. Bilbray	X			Mr. Stupak	X		
Mr. Whitfield	X			Mr. Engel	X		
Mr. Ganske	X						
Mr. Frisa	X						
Mr. Norwood	X						
Mr. White	X						
Mr. Coburn	X						

VOICE VOTES

Bill: H.R. 3604, Safe Drinking Water Act Amendments of 1996.

Amendment: Amendment by Mr. White and Mrs. Furse re: alternative source water protection strategies for the Northwest.

Disposition: Agreed to by a voice vote.

Amendment: En bloc amendment by Mr. Bilirakis re: miscellaneous provisions of the bill.

Disposition: Agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held an oversight hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3604 would result in no new or increased budget authority or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 1996.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3604, the Safe Drinking Water Act Amendments of 1996.

Enacting H.R. 3604 would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3604.

2. Bill title: Safe Drinking Water Act Amendments of 1996.

3. Bill status: As ordered reported by the House Committee on Commerce on June 11, 1996.

4. Bill purpose: The bill would amend the Safe Drinking Water Act (SDWA) to authorize the Environmental Protection Agency (EPA) to make grants to states for capitalizing state revolving loan funds (SRFs). These SRFs would finance the construction of facilities for the treatment of drinking water. The bill would authorize appropriations of $1 billion annually over the 1997–2003 period for these capitalization grants. In addition, major provisions of the bill would:

amend the procedures that EPA uses to identify contaminants for regulation under the SDWA;

allows states to establish an alternative monitoring program for contaminants in drinking water;

allow operators of small drinking water systems to obtain variances from drinking water standards under certain conditions;

direct EPA to define treatment technologies that are feasible for small drinking water systems when the agency issues new contaminant regulations;

require states to ensure that public water systems have the technical expertise and financial resources to implement the SDWA;

authorize appropriations of $100 million a year for state public water system supervision (PWSS) programs, $15 million a year for protecting underground drinking water sources, $30 million a year for protecting drinking water wellhead areas, and $15 million a year for assisting small drinking water systems; and

authorize appropriations of $15 million a year to the state of New York for demonstration projects implemented as part of the program for protecting the source water of the New York City water system.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized for discretionary programs, enacting H.R. 3604 would lead to fiscal year 1997 funding for safe drinking water programs about $0.6 billion above the 1996 appropriation. CBO estimates that the bill would authorize appropriations totaling about $7.8 billion over the 1997–2002 period.

The authorization for most of EPA's safe drinking water activities expired in 1991, but the program has been continued through annual appropriations. In 1996, $184 million was appropriated to EPA for safe drinking water program implementation, research, and grants. In addition to this amount, $500 million was appropriated in 1996, $700 million was appropriated in 1995, and $599 million was appropriated in 1994 for EPA capitalization grants to safe drinking water state revolving loan funds (SRFs). Spending of these SRF funds was made contingent upon enactment of legislation authorizing safe drinking water SRFs. Public Law 104–19 rescinded all but $225 million of the 1995 and 1994 SRF appropriations.

Enacting H.R. 3604 would have a small effect on revenues from civil and criminal penalties and on direct spending, which results from the use of such penalty receipts. Finally, enacting the bill could increase direct spending for the payments of judgments against the federal government resulting from claims made by states under SDWA; however, CBO cannot predict the number or amount of any such judgments that might result from enacting the bill. The estimated budgetary effects of H.R. 3604 are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS							
Spending under current law:							
Budget authority	684	.....	.....	.....	.....	.....	.....
Estimated outlays	180	83	204	252	154	70	22
Proposed changes:							
Estimated authorization level	.....	1,304	1,305	1,307	1,309	1,310	1,307
Estimated outlays	.....	238	595	967	1,181	1,279	1,308
Spending under H.R. 3604:							
Estimated authorization level [1]	684	1,304	1,305	1,307	1,309	1,310	1,307
Estimated outlays	180	321	799	1,219	1,335	1,349	1,330
ADDITIONAL REVENUES AND DIRECT SPENDING							
Revenues:							
Estimated revenues	.....	(2)	(2)	(2)	(2)	(2)	(2)
Direct spending:							
Estimated budget authority	.....	.....	(2)	(2)	(2)	(2)	(2)
Estimated outlays	.....	.....	(2)	(2)	(2)	(2)	(2)

[1] The 1996 level is the amount appropriated for that year.
[2] Less than $500,000.

The costs of this bill fall within budget function 300.

6. Basis of estimate: *Spending Subject to Appropriations.* For purposes of this estimate, CBO assumes that the bill will be enacted before 1997 appropriations for EPA are provided and that all funds authorized by H.R. 3604 will be appropriated for each year. Over the 1997–2003 period, the bill would authorize appropriations totaling $8.8 billion, including $7 billion for grants to safe drinking water SRFs. Estimated outlays are based on historical spending

patterns of ongoing EPA drinking water programs and its grant program for waste water treatment SRFs.

In addition to the bill's specified authorization amounts, CBO has estimated that $50 million to $60 million a year would be necessary to pay for activities authorized by the bill without specific dollar authorizations. These activities include EPA's general oversight, administrative costs, enforcement and implementation of the Safe Drinking Water Act, and mandated studies for the safe drinking water program. Estimated costs for these activities are based on information provided by EPA.

Revenues and Direct Spending. Enactment of this bill would increase governmental receipts from civil and criminal penalties, as well as direct spending from the Crime Victims Funds, but CBO expects that the amounts involved would be insignificant. Any additional amounts deposited into the Crime Victims Fund would be spent in the following year.

In addition, section 202 of the bill would explicitly waive any federal immunity from administrative orders or civil or administrative fines or penalties assessed under SDWA, and would clarify that federal facilities are subject to reasonable service charges assessed in connection with a federal or state program. This provision of SDWA may encourage states to seek to impose fines and penalties on the federal government under SDWA. If federal agencies contest these fines and penalties, it is possible that payments would have to be made from the government's Claims and Judgments Fund, if not otherwise provided from appropriated funds. The Claims and Judgments Fund is a permanent, open-ended appropriation, and any amounts paid from it would be considered direct spending. CBO cannot predict the number of judgments against the government that could result from enactment of this bill. Further, we cannot determine whether those judgments would be paid from the claims and Judgments Fund or from appropriated funds. The exact amount of such judgment payments is highly uncertain, but CBO expects that payments from the Claims and Judgments Fund are unlikely to exceed $500,000 a year.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Enacting H.R. 3604 would increase governmental receipts from civil and criminal penalties, and the spending of such penalties; hence, pay-as-you-go procedures would apply. Direct spending could also increase because of payments for judgments against the government. The following table summarizes CBO's estimate of the bill's pay-as-you-go effects.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

8. Estimated impact on State, local, and tribal governments: H.R. 3064 would impose new mandates on both state and local governments, but would also change the federal drinking water program in ways that would lower the costs to public water systems of com-

plying with existing and future federal requirements. CBO estimates that annual costs imposed by the bill would not exceed the $50 million threshold established in Public Law 104–4.

CBO projects that publicly owned water systems would incur direct costs of $15 million to $25 million per year to comply with requirement to mail annual "consumer confidence reports" to their customers. Publicly owned water systems would also incur annual direct costs of $5 million to $10 million to comply with the operator-certification requirement, beginning in fiscal year 2001. CBO further estimates that state governments would incur costs totaling several million dollars per year to comply with the requirement to development implement capacity development strategies for eater systems.

These additional costs to state and local governments would be at least partially offset by a number of other changes to the federal drinking water program that would significantly lower the costs of complying with future requirements. Specifically, the bill would reduce public water systems' likely costs by changing the federal standard-setting process, delaying the effective date of new regulations, allowing operators to obtain variances, and allowing states to establish alternative monitoring requirements.

CBO will provide a more detailed analysis of the costs of this bill to state and local governments under separate cover.

9. Estimated impact on the private sector: The net direct costs of the private-sector mandates identified in this bill would not likely exceed the $100 million threshold established in Public Law 104–4. CBO estimates that the aggregate direct cost of mandates in this bill for which we were able to obtain data would range from $40 million to $60 million annual for the first five years that mandates are effective. We further estimate that the costs of these new mandates on the private sector would be at least partially offset by savings from changes the bill would make in the standard-setting process and in other aspects of the federal drinking water program. These changes, which are the same as those resulting in savings to publicly owned systems, would significantly lower the costs that privately owned systems would incur to comply with future regulatory requirements. CBO will provide a more detailed estimate of the private-sector mandates under separate cover.

10. Previous CBO estimate: On November 7, 1995, CBO prepared a cost estimate for S. 1316, the Safe Drinking Water Act Amendments of 1995, as ordered reported by the Senate Committee on environment and Public Works on October 24, 1995. The estimated budgetary effects of these bills are very similar, though total authorizations in the Senate bill are slightly higher. Both bills would authorize $1 billion annually for grants to state revolving loan funds, and both bills would explicitly waive any federal immunity under the Safe Drinking Water Act.

11. Estimate prepared by: Federal Cost Estimate: Kim Cawley and Stephanie Weiner. State and Local Government Cost Estimate: Pepper Santalucia. Private-Sector Impact: Patrice Gordon and Terry Dinan.

12. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill would have no inflationary impact.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title and table of contents

This section sets forth the short title of the bill, the "Safe Drinking Water Act Amendments of 1996," and the bill's table of contents.

Section 2. References; effective date; disclaimer

This section provides for references to Title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act, 42 U.S.C. 300f et seq.). It provides that, except as otherwise noted, the amendments made by this Act shall take effect on the date of enactment of this Act. This section also makes the disclaimer that this Act is not intended to affect the Federal Water Pollution Control Act, the duties and responsibilities of the Environmental Protection Agency (EPA) under that Act, or the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act. This section further requires the Administrator to identify in the Agency's annual budget all funding and full-time equivalents for Title XIV of the Public Health Service Act separately from funding and staffing for the Federal Water Pollution Control Act.

TITLE I—PUBLIC WATER SYSTEMS

Section 101. Selection of additional contaminants

Section 101(a) repeals the requirement that EPA publish regulations for not fewer than 25 contaminants every three years and makes other changes to section 1412(b)(3). Not later than 18 months after enactment and every 5 years thereafter, EPA, after consulting with the scientific community, soliciting public comment, and considering the occurrence data base established under section 305 of this Act, must publish a list of contaminants that may require regulation. The Administrator's decision whether or not to select a contaminant for listing will not be subject to judicial review.

Not later than 5 years after enactment and every 5 years thereafter, EPA must make a determination, by rule, whether or not to regulate at least 5 of the listed contaminants. A determination to regulate is to be based on findings that a contaminant is known to occur, or there is a substantial likelihood that the contaminant will occur, in public water systems with a frequency and at a level of public health concern, and that regulation presents a meaningful opportunity for public health risk reduction. Findings must be based on the best available public health information including in-

formation from the newly-established occurrence data base. Additionally, the Administrator may make a determination to regulate a contaminant that does not appear on the list so long as the Administrator makes the necessary findings under section 1412(b)(3)(B)(ii). A determination not to regulate is to be considered a final agency action and subject to judicial review.

Section 101(a) further provides that in selecting unregulated contaminants for regulatory consideration, EPA must select contaminants that present the greatest public health concern, taking into consideration, among other factors of public health concern, the effect of contaminants upon sensitive subpopulations that comprise a meaningful portion of the population. For each contaminant that the Administrator determines to regulate, the Administrator must propose a maximum contaminant level goal (MCLG) and a national primary drinking water regulation within 2 years of making a determination to regulate, and must promulgate a final rule within 18 months after it is proposed. The Administrator may extend the deadline for promulgation of a national primary drinking water regulation by up to nine months by publication of notice in the Federal Register. Section 101(a) also authorizes the Administrator to publish nonregulatory health advisories or take other appropriate actions for unregulated contaminants.

Section 101(b) provides that the requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act which are in effect before the date of enactment of the Safe Drinking Water Act Amendments of 1996, including deadlines for promulgation of regulations which are not promulgated by the date of enactment of the Safe Drinking Water Act Amendments of 1996, are superseded by the amendments made by subsection 101(a).

Section 102. Disinfectants and disinfection byproducts

This section adds a new subparagraph to section 1412(b)(3) of the Act establishing deadlines for the Administrator to issue regulations for the collection of information and for disinfectants and disinfection byproducts and an enhanced surface water treatment. It directs the Administrator to promulgate an information collection rule (ICR) to obtain information to facilitate further revisions to the disinfectant and disinfection byproducts regulation, including information on cryptosporidium, no later than December 31, 1996. The bill establishes the same time intervals between the final ICR, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule that are established in the schedule for the proposed ICR published in the Federal Register (59 FR 6361) on February 10, 1994. If any rule is delayed, the subsequent rules must be completed as quickly as practicable, but no later than the revised date that reflects the relevant interval or intervals.

Section 103. Limited alternative to filtration

This section modifies section 1412(b)(7)(C) to provide an additional alternative to the regulations promulgated pursuant to clause (i) and (iii) of section 1412(b)(9)(C). On a case-by-case basis, and after public notice and comment, a State with primary enforce-

ment responsibility for public water systems may establish treatment requirements as an alternative to filtration for systems having undeveloped and uninhabited watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the alternative requirements ensure greater removal or inactivation efficiencies of pathogens than would be achieved by filtration in combination with chlorination.

The limited alternative to filtration requirements established by this section is intended to provide an alternative to, but not supersede, the existing filtration requirements that have been promulgated pursuant to subsection 1412(b)(7)(C), including the filtration avoidance criteria contained in 40 C.F.R. Sec. 141.71. Thus this language will not alter the status of those entities that currently need not filter their water. Instead, the new language merely establishes an additional circumstance in which the Administrator may permit a utility to select an alternative treatment technique in lieu of filtration.

The bill requires as a condition of using alternative treatment measures that the watershed of the affected utility be in "consolidated ownership." By this the Committee does not mean to imply that there must be only one owner of the total watershed. The committee recognizes that the watersheds of the cities of San Francisco, California; Portland, Oregon; and Seattle and Tacoma, Washington are in consolidated ownership. Further, consistent with the current filtration alternatives criteria, the utility must be able to demonstrate that there are effective controls on human activities that may have an adverse effect on the microbiological quality of the source water and that the controls apply to all land in the watershed, no matter what its ownership status. Such controls may be exercised through statute, regulation, or written agreements with land owners.

In establishing this new alternative to filtration requirements, the Committee does not necessarily intend to imply that systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds have water quality that is in any way superior to other systems' source water quality or that the ownership or acquisition of watershed land, which is one of many tools available to public water systems for the protection of source water quality, is necessarily the principal or preferred alternative for source water protection.

The Committee understands that there is some concern with a filtration project affecting the Croton Watershed in New York. The Committee urges EPA to assist the State to find solutions that are acceptable and protect public health.

Section 104. Standard-setting

This section retains the basic standard setting process, including existing provisions for health-based maximum contaminant level goals (MCLGs). The maximum contaminant level (MCL) are revised to give the Administrator new flexibility to consider risk reduction benefits and costs of compliance when formulating new and revised drinking water regulations.

The Committee has determined not to make any changes to the maximum contaminant level goal provisions of the Safe Drinking Water Act, which provide that the Administrator is required to establish a maximum contaminant level goal at a level "at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety." (See section 1412(b)(4).) In discussing this provision, the 1974 Interstate and Foreign Commerce Committee Report accompanying the original adoption of this language stated that the maximum contaminant goal "must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case, the recommended maximum contaminant level should be set at the zero level."[17] The Administrator has interpreted this language to authorize the establishment of MCLGs at a level above zero when the scientific evidence indicates that a safe level is present. The Committee believes that this formulation remains viable and should continue to govern EPA's decisions regarding the proper maximum contaminant level goal.

Section 104(a) amends section 1412(b) of the Act to require the Administrator, when proposing a national primary drinking water regulation, to publish a determination as to whether the benefits of the maximum contaminant level (MCL) justify, or do not justify, the costs, based on a health risk reduction and cost analysis prepared under section 107 of this Act. This new requirement is set forth in section 1412(b)(4)(C).

Section 104(a) amends section 1412(b) to authorize the Administrator to set the MCL at a level other than the feasible level if use of the technology, treatment techniques or other means at the feasible level would increase health risks by increasing concentrations of other contaminants or by interfering with the efficacy of existing treatment techniques. This new authority is set forth in new section 1412(b)(5). If the Administrator uses this authority, the level or levels or treatment technique must minimize the overall health risk.

Section 104(a) also authorizes EPA to promulgate a national primary drinking water regulation that is less stringent than the level that would be established under paragraph 1412(b)(4), if the Administrator determines that the benefits of a standard would not justify its compliance costs. If the Administrator uses this authority, he or she must set the standard at the level that maximizes health risk reduction benefits at a cost that is justified by the benefits. The Administrator is to consider not only the costs and benefits that may be experienced by all systems, but is also to look at the systems that are actually expected to implement the standard to determine whether benefits justify the costs for these systems. If most small systems are likely, based on information provided by the States, to receive a variance from a particular standard and the benefits of a standard at the feasible level (authorized by section 1412(b)(4)) experienced by consumers served by large systems (and other systems that do not receive a variance) justify the costs, then the Administrator is not to use the authority of section 1412(b)(6)

[17] (H.R. Rpt. No. 1185, 93d Cong., Sess. (1974)); Senate Comm. on Environment and Public Works, 97th Cong., 2d Sess., A Legislative History of the Safe Drinking Water Act 552 (Comm. Print 1982).

to set a standard. This exception to the discretionary authority to set standards under section 1412(b)(6) does not apply where the contaminant occurs almost exclusively in small systems.

Section 104(a) also provides that the Administrator may not use this authority for setting standards under Stage 1 or Stage 2 of the Disinfectants and Disinfection Byproducts Rules, or for establishing a standard or treatment technique for cryptosporidium. However, the Administrator may use this authority to establish regulations for groundwater disinfection as required by section 1412(b)(8).

Judicial review of the Administrator's determination as to whether the benefits of a given maximum contaminant level or treatment requirement justify or do not justify the cost of complying with the level or treatment requirement shall occur only as part of a review of a final national primary drinking water regulation that is based on this determination. The Administrator's determination may not be set aside unless the court finds that the determination is arbitrary or capricious. Except as specified for the determination under section 1412(b)(4)(C), this judicial review provision is not intended to change the standard of review otherwise applicable to a national primary drinking water regulation, including the requirements for the regulation to comply with the procedural provisions of this section.

Section 104(b) addresses the application of amended section 1412(b)(5) to the Agency's proposed Stage 1 and Stage 2 regulations for disinfectants and disinfection byproducts. Public water systems use disinfectants to kill harmful microbial contaminants that can cause serious illness or even death. However, disinfectants and their resulting byproducts also may pose risks, including potential increases in cancer rates and liver and kidney damage. The regulation of both risks from microbial contaminants and risks from disinfectants and disinfection byproducts presents EPA with a unique challenge. Nonetheless, controls for cryptosporidium and disinfection byproducts are widely considered to be a pressing and high priority for improving drinking water safety.

In November 1992, EPA convened a negotiated rulemaking to examine both the proper strategy for combating cryptosporidium and other microbial contaminants and to consider threats to human health from the use of disinfectants commonly employed to combat microbial contaminants. EPA had determined to use the negotiated rulemaking process because the Agency believed that "the available occurrence, treatment and health effects data were inadequate to address EPA's concern about the tradeoff between risks from disinfectants and disinfection byproducts and microbial pathogen risk, and wanted all stakeholders to participate in the decision-making on setting proposed standards." (59 Fed. Reg. 38670, July 29, 1994).

Representatives from EPA, State and local government, water suppliers, public health organizations and environmental groups, among others, worked for nearly two years to reach agreement on a framework for regulating both microbial contaminants and disinfection byproducts. The framework will result in rules for controlling disinfection byproducts and an Enhanced Surface Water Treatment Rule to address risks posed from microbial organisms. The package of rules when fully implemented is expected to minimize

exposures to harmful microbial contaminants while reducing exposure to disinfection byproducts that present a health risk by optimizing the use of disinfectants and other means of water treatment.

The negotiating committee agreed that a two-step process was necessary to address the microbial and disinfection and disinfection byproducts issues. The July 29, 1994, Federal Register notice thus proposes both Stage 1 and Stage 2 levels of control. The Stage I provisions set limits for two principal classes of chlorination byproducts, as well as limits for specific byproducts resulting from other disinfection processes, at levels deemed appropriate as a first step standard based on current information. More stringent Stage 2 controls were also proposed for the two classes of chlorination byproducts but a second round of negotiations is envisioned. In the meantime, EPA is conducting an agreed-upon regime of health effects research and water quality monitoring which will be used both to finalize the disinfection byproduct rule and the Enhanced Surface Water Treatment Rule (as provided for by the parties' agreement) and for the second round of negotiations. "Based on this information and new data generated through research," EPA "will reevaluate the Stage 2 regulations and repropose, as appropriate, depending on criteria agreed on in a second regulatory negotiation (or similar rule development process)" (59 Fed. Reg. 38743).

The Committee acknowledges the delicate balance that was struck by the parties in structuring the settlement of these complicated and difficult issues, and encourages the parties to continue according to the negotiated agreement. The negotiated agreement contains an over-arching set of principles to guide the individual rulemakings which incorporated consideration of various factors. The Committee intends that all additional negotiations weigh the same factors that guided the development of the proposed rule. Specifically, all further negotiations for the Stage II regulations for the control of disinfection byproducts should follow and be consistent with the consideration s that led to an agreement regarding the proposed rule for Stage 1.

In order to preserve the progress made, there has been considerable care taken to ensure that the new provisions of this bill not conflict with the parties' agreement nor disrupt the implementation of the regulatory actions. To do otherwise would substantially disrupt, if not destroy, the next round of negotiations and lead to unne cessary delays in protecting public health. For this reason, the bill precludes the use of the new authority in section 1412(b)(6) to establish maximum contaminant levels for the Stage 1 and Stage 2 rulemakings for disinfectants or disinfection byproducts or to establish a national primary drinking water maximum contaminant level or treatment technique for cryptosporidium. (See new section 1412(b)(6)(C).)

The Committee recognizes, however, that the development of this regulatory package has required the negotiators to consider complex issues of risk, costs, affordability, feasible technology, and health benefits. It is the Committee's view that the proposed rule that has been produced is consistent with the "risk-risk" provision set out in new section 1412(b)(5). Therefore, Section 104(b) makes clear that the Administrator may use the authority of section

1412(b)(5) to promulgate Stage 1 and Stage 2 rules. However, it is also the Committee's intent that no provision of Section 1412(b)(5) be interpreted to force an alteration of the negotiated agreement.

Finally, Section 104(b) provides that for the purpose of promulgating Stage 1 and Stage 2 regulations for disinfection and disinfection byproducts, the consideration that the Administrator used in the development of the July 29, 1994 proposal for such regulation are to be considered consistent with section 1412(b)(5). These considerations included risk, cost, affordability, feasible technology, and health benefits. The Committee intends with this language to ensure that the negotiators and ultimately the Administrator are authorized to consider these factors in the same manner as these considerations were used in developing the Stage I proposed rule.

Section 104(c) amends the current requirement that EPA review, and if appropriate, revise each regulation every 3 years (section 1412(b)(9)). The bill extends the review period to 6 years, and specifies that revisions are to be done using the standard setting procedures under this section and are to maintain or provide for greater public health protection. This subsection does not alter the Administrator's authority to review the scientific basis of national primary drinking water regulations and, where appropriate, revise regulations accordingly. Thus, the level necessary to maintain public health protection may change as new or additional information becomes available. Where the Agency makes a determination regarding human health effects that are inconsistent with determinations on which the Administrator has relied in establishing a national primary drinking regulation, the Administrator is encouraged to revise the standard to reflect the more recent information.

Section 105. Ground Water Disinfection

Section 105 amends the current requirement under section 1412(b)(8) that the Administrator promulgate regulations requiring disinfection by all public water systems (including, as necessary, groundwater systems) by 1989. The bill requires the Administrator to promulgate disinfection regulations any time in the period beginning 3 years after enactment of these amendments and up to the date on which EPA promulgates a Stage II D/DBP rule. The Administrator must consult with States and promulgate criteria that States must apply to determine for each public water system served by ground water whether disinfection would be required. Primacy States must use these criteria to develop plans for making ground water disinfection determinations and submit the plans to the Administrator for approval.

Section 106. Effective date for regulations

This section amends section 1412(b)(10) to make national primary drinking water regulations effective 3 years after promulgation unless the Administrator determines that an earlier date is practicable. The Administrator may establish an earlier effective date, or may allow up to 2 additional years to comply, if he or she or a State (in the case of individual systems) determines that more time is needed for capital improvements.

Section 107. Risk assessment, management, and communication

This section further amends section 1412(b) to address the scientific basis of regulatory decisionmaking and risk communication in drinking water regulations. The Administrator is directed to use the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and data collected by accepted methods in carrying out science-based actions under this section. The Committee encourages the Administrator to obtain and use appropriate peer review for other significant agency actions under this title where scientific studies or assessment are important for those actions. The Committee also expects the Administrator and the States implementing State programs under this Title to use sound and objective scientific practices in assessing and characterizing scientific information or studies. The bill also requires the Administrator to present health effects information in a comprehensive, informative, and understandable manner. The Administrator is required to make publicly available a document that includes information about populations addressed by health effects estimates, expected risk, upper- or lower-bound risk estimates, significant uncertainties and studies that would help resolve them, peer-reviewed studies that do or do not support the estimates of health effects, and the methodology used to reconcile inconsistencies in the data.

Section 107 establishes in new subsection 1412(b)(12)(C) the requirement that the Administrator prepare a health risk reduction and cost analysis for new regulations. When proposing any national primary drinking water regulation that includes a maximum contaminant level or a treatment technique, the Administrator must publish, seek public comment, and use for the purposes of paragraphs 1412(b)(4), 1412(b)(5) and 1412(b)(6) for an analysis of:

Quantifiable and nonquantifiable health risk reduction benefits expected to result from implementation of the standard;

Any benefits likely to occur from reductions in co-occurring contaminants attributed to compliance with the MCL;

Quantifiable and nonquantifiable costs likely to occur with compliance, including monitoring, treatment, and other costs;

Incremental costs and benefits associated with each alternative MCL considered;

Effects of the contaminant on the general population and subgroups likely to be at greater risk;

Any increased risk that may occur as a result of compliance (including risks associated with co-occurring contaminants); and

Quality of information and uncertainties in the analyses and the degree and nature of the risk.

Section 107 authorizes $35 million per year for Fiscal Years 1996 through 2003 for EPA's Office of Ground Water and Drinking Water to perform the analyses and assessments required to support the development of drinking water regulations.

Section 108. Radon, arsenic, and sulfate

This section amends section 1412(b) to establish separate regulatory provisions and schedules for radon, arsenic, and sulfate.

Radon. New section 1412(b)(13)(A) requires the Administrator to withdraw the existing proposed radon regulation. Within 3 years of the date of enactment of these amendments, the Administrator must repropose and promulgate a radon regulation using the new standard setting procedures established by these amendments. In performing the required risk and benefit cost analyses for the radon rule, the Administrator must consider the costs and benefits of control programs for radon from other sources.

Arsenic. New section 1412(b)(13)(B) requires the Administrator, within 180 days of enactment, to develop a plan for reducing the uncertainty in assessing risks associated with exposure to low levels of arsenic. Arsenic in drinking water is currently regulated at a level of 50 parts per billion. This standard was established in 1942 and does not take into account any possible carcinogenic effect from exposures to arsenic. While EPA was required to promulgate a new arsenic standard under the 1986 Amendments, it failed to do so due to the uncertainties surrounding the health effects of arsenic at low exposures. Because of this, the bill provides that the Administrator must develop a plan to assess the health risks associated with exposures to low levels of arsenic. This plan must be prepared within 180 days of enactment. The plan must be carried out in consultation with the National Academy of Science, other Federal agencies, and interested public and private parties. The Administrator must propose a national primary drinking water regulation for arsenic not later than January 1, 2000, and must promulgate a final regulation no later than January 1, 2001. The section authorizes $2 million per year, for Fiscal Years 1997 through 2001, for studies required by the plan concerning the effects of exposure to low levels of arsenic to human health.

Sulfate. New section 1412(b)(13)(C) directs the Administrator, and the Director of the Centers for Disease Control and Prevention, to jointly conduct a study to establish a reliable dose-response relationship for the adverse health effects from exposure to sulfate in drinking water, prior to establishing a national primary drinking water standard for sulfate. The study must be conducted in consultation with interested States and must be based on the best available, peer-reviewed science and scientifically sound studies. The subparagraph creates no deadline for a sulfate standard. If the Administrator promulgates a regulation for sulfate, the regulation must include public notification requirements and options for provision of alternative water supplies to groups at risk as a means of complying in lieu of treatment.

Section 109. Urgent threats to public health

This section amends Section 1412(b) for the purpose of addressing urgent public health threats. The Committee contemplates that such threats are those which would require immediate or near-immediate action on the part of the Administrator in order to protect public health. In these exceptional circumstances, the bill authorizes the Administrator to promulgate an interim drinking water regulation for a contaminant without making a determination as to whether or not the benefits justify the costs (under new section 1412(b)(4)(C)) and without performing a health risk reduction and cost analysis (under new section 1412(b)(12)(C)) in order to address

an urgent threat to public health. The Administrator is required to publish the determination and analysis for such a contaminant within 3 years after the interim regulation is promulgated, and to repromulgate or revise the regulation within 5 years of that date.

Section 110. Recycling of filter backwash

This section further amends section 1412(b) to require EPA to promulgate, within 4 years, a regulation governing the recycling of filter backwash water within the treatment process of public water systems, unless such recycling has been addressed by the enhanced surface water treatment rule.

Section 111. Treatment technologies for small systems

Section 111(a) amends section 1412(b)(4)(E) to require that when EPA lists in regulations feasible treatment technologies for meeting national primary drinking water regulations, the Administrator must include technologies, treatment techniques, or other means that are affordable for three specified size categories of small public water systems. Listed small system technologies must achieve compliance with the maximum contaminant level or treatment technique and may include point-of-entry and point-of-use treatment units. Such units must be owned, controlled and maintained by the public water systems or a person under contract with the system to ensure proper operation and maintenance and compliance.

Within two years after enactment, the Administrator must issue a list of technologies affordable for small public water systems for existing regulations. Notwithstanding this deadline, the Administrator must list affordable small system technologies for the surface water treatment rule within one year.

Section 111(b) adds new subsection 1445(g) to authorize the Administrator to request information from manufacturers, States and others on commercially available treatment systems and technologies for the purpose of developing regulations or guidance for the small systems assistance program under sections 1412(b)(4)(E) and 1415(e).

The Committee is aware that the Administrator has recently entered into a cooperative agreement with the National Sanitation Foundation to develop and implement a package drinking water treatment technology performance verification program. By providing objective and verifiable performance data, this program will help to reduce costly and repetitive State pilot testing requirements for package technologies. The Committee encourages the Administrator to pursue this and other means of facilitating the approval by States of affordable drinking water treatment technologies.

The Committee points to Galena Knolls Water Company, located in Chillicothe, Illinois, as an example of the type of small water system that section 111 is intended to help. The Galena Knolls Water Company serves about 70 customers and clearly falls within the population requirements set forth in section 111. Because this water system cannot achieve the economics of scale that larger systems can, it has been unable to afford more expensive treatment systems. However, point-of-use filters would be affordable for Galena Knolls.

Section 121. State primacy

Section 121(a) modifies section 1413 to extend, from 18 months (in current law) to two years after promulgation, the deadline for States to submit regulations for approval by the Administrator. The bill authorizes the Administrator to extend the deadline by up to two years if the Administrator determines that the extension is necessary and justified. The bill also specifies that States with primacy are to be considered to have primary enforcement authority for a new regulation for the period during which EPA is making a determination with regard to primacy for that new regulation.

Section 121(b) amends section 1413(a)(5) on emergency planning to include reference to specific types of natural disasters.

Section 131. Public notification

This section revises the Safe Drinking Water Act's public notification requirements in section 1414(c). New subsection 1414(c) (1) retains the requirements that a public water system notify customers of violations of an MCL and other events specified by existing subsections 1414(c) (1) and (2). New subsection 1414(c)(2) directs the Administrator, in consultation with States, to issue regulations prescribing the form, manner, frequency, and content for giving notice. Such regulations are to include different notification frequencies that reflect the frequencies and seriousness of violations. The bill permits States to establish alternative notification requirements. For violations with the potential to have serious adverse health effects from short-term exposure, a system must notify customers and the State or EPA within 24 hours of the violation. Notices must provide a clear explanation of the violation, potential adverse health effects, steps being taken to address the violation, and the necessity of seeking alternative water supplies in the interim. For such violations, States may vary the form, content and manner (e.g., broadcast media, newspaper, or door-to-door) of notice.

For other violations, the EPA regulations must require public water systems to give written notice of violations to customers and prescribe the form and manner of the notice. For these violations, States may vary only the form and content of the notice. EPA also may require a public water system to give notice to customers of levels of an unregulated contaminant monitored under section 1445.

New paragraph 1414(c)(3) requires primacy States to make available to the public and submit to EPA annual reports for the preceding Federal fiscal year on violations by public water systems in the States beginning no later than January 1, 1998. The Administrator is required to prepare and make available to the public annual reports summarizing and evaluating the State reports and similar information provided by Indian Tribes, beginning no later than July 1, 1998.

New paragraph 1414(c)(4) requires each community water system to issue an annual "consumer confidence report" to its customers. Under existing law, community water systems are required to notify their customers when the system fails to comply with an applicable maximum contaminant level or treatment technique requirement of, or a monitoring procedure prescribed by, a national

primary drinking water regulation. Also under existing law, community water systems are required to provide notification of the availability of the results of monitoring for unregulated contaminants required by section 1445(a)(2). The "consumer confidence report" required by this paragraph will require community water systems to provide customers with information on whether they are, or are not, complying with the national primary drinking water regulations. Nothing in this new paragraph is intended to modify other public notification requirements of section 1414(c).

New subparagraph 1414(c)(4)(A) requires the Administrator, within 24 months after the date of enactment of these amendments, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, the States, and other interested parties, to issue regulations implementing the requirements of new paragraph 1414(c)(4).

New subparagraph 1414(c)(4)(B) sets out the requirements for the contents of a consumer confidence report. The report must contain information on the source of the water purveyed, brief and plainly worded definitions of the terms "maximum contaminant level goal" and "maximum contaminant level," as provided by Administrator's regulations, information on levels of regulated and certain unregulated contaminants in the water purveyed, a brief statement in plain language on the health effects of the contaminant for which there has been a violation of the maximum contaminant level during the year concerned, information on compliance with national primary drinking water regulations, information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2), and a statement referring consumers to an EPA "hot-line" for more information.

The Committee expects that the Administrator will promulgate regulations that ensure risks from exposure to contaminants in drinking water will be communicated in an accurate and understandable manner.

The Committee also expects that the Administrator will promulgate regulations that allow community water systems to provide the required information in the most cost-effective manner possible. The Committee expects that in most cases, the reports will be one-page reports which can be included in ordinary mailings. Therefore, the statements which the Administrator is required to develop, and water systems are required to use, concerning the definition of terms and the explanation of health effects, should be as simple and straightforward as possible.

New section 1414(c)(4)(B) further provides that a public water system may include such additional information as it deems appropriate for public education. A number of public water systems already provide their customers with an annual compliance report. These reports take many forms. A public water system may include such additional information as it deems appropriate for public education. The Committee encourages community water systems to use their expertise and experience to present the information required by this paragraph in the most accurate and effective manner.

New paragraph 1414(c)(4)(C) provides that a Governor of a State may determine not to apply the mailing requirement of the paragraph to community water systems serving fewer than 10,000 per-

sons. Any such system which is exempt shall inform its customers that the system has been exempt from the mailing requirements of the paragraph, make information available upon request to the public regarding the quality of the water supplied by the system, and publish the report required by the paragraph in one or more local newspapers serving the area in which customers of the system are located.

Paragraph 1414(c)(4)(D) provides that a State with primary enforcement responsibility for public water systems may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of the reports required by new paragraph 1414(c)(4). The Committee expects that States will use this authority, among other things, to adapt the annual reports to State requirements and to the particular circumstances of individual States.

Section 132. Enforcement

Section 132(a)(1) amends section 1414(a) to specify that enforcement authority under the Act applies to "any applicable requirement." An "applicable requirement" is defined in section 132(a)(4), infra.

Section 132(a)(1) further amends 1414(a) to require the Administrator to notify an appropriate local elected official, if any, with jurisdiction over the public water system when taking an enforcement action in a nonprimacy State.

Section 132(a)(2) amends section 1414(b) to authorize EPA to bring a civil action to require compliance with "any applicable requirement."

Section 132(a)(3) amends section 1414(g) to streamline the process for taking administrative enforcement action and to apply this authority to violations of "applicable" requirements. This provision eliminates the requirement that the Administrator issue a proposed order and hold a public hearing prior to issuing a final compliance order. The revised language authorizes the Administrator to issue a compliance order after notifying the State and giving the State the opportunity to take action.

Section 132(a)(4) adds new section 1414(h) to provide enforcement relief for certain noncomplying systems. Under new subsection (h), the new owner or operator of a public water system may submit a plan for the consolidation or transfer of ownership of the system. If the plan is approved by the State or the Administrator, enforcement action may not be taken for a violation identified in the approved plan for a period of two years or until consolidation is completed, whichever date is earlier.

Section 132(a)(4) defines, in new subsection 1414(i), the term "applicable" requirement to include requirements of: section 1412 (primary drinking water regulations); section 1414 (public notification); section 1415 (variances); section 1416 (exemptions); section 1417 (prohibition on use of lead pipe, solder, and flux); section 1441 (chemical supplies); or 1445 (records and inspections). The term "applicable requirement" is further defined to include: regulations promulgated under these sections; schedules or requirements imposed under these sections; and a requirement of, or permit issued under, an approved, applicable State program.

Section 132(b) amends section 1413(a) to add a new condition for States to receive primary enforcement authority; i.e., States must adopt authority for administrative penalties, unless prohibited by the State constitution. The authority must allow a maximum penalty for systems serving more than 10,000 people of $1,000 per day per violation, and for smaller systems, an amount that is adequate to ensure compliance, as determined by the State, except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

Section 133. Judicial review

This section amends section 1448(a) to specify that judicial review is available only for final Agency actions. It further provides that a court shall set aside and remand an EPA penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

Section 141. Exemptions

Section 141(a) establishes in new section 1416(h) exemption conditions and requirements for public water systems serving fewer than 3,300 persons. These systems may be granted an exemption for a maximum term of four years if the State has primacy and determines that the system cannot meet the MCL or install Best Available Affordable Technology (BAAT) and cannot comply through use of an alternative water source, and the system will still provide a drinking water supply that is protective of public health given the duration of the exemption. Prior to issuing an exemption, the State must examine whether the system has the capacity to comply with SDWA requirements, and determine if management or restructuring changes could result in compliance or improve drinking water quality. If the State determines that management or restructuring changes can reasonably be made, the State must make the adoption of such changes and a schedule for adopting such changes a condition of the exemption. State decisions regarding management changes or restructuring are not subject to review by the Administrator except as part of EPA's normal review of State exemptions under subsection (d). Conditions for exemptions on subsections 1416(a) (1) and (3) do not apply to exemptions under new section 1416(h). Small system exemptions may be renewed for additional four year periods. Exemptions are not available for microbiological contaminants.

Section 141(b) further provides in section 1416(h) that the State of New York may allow limited additional time for compliance with the Surface Water Treatment Rule for certain systems in specified counties that meet certain stated criteria.

Section 141(c) amends section 1416(b)(2)(A)(ii) to extend the term of an exemption, issued under section 1416(a), from 12 months (under current law) to four years. The final date of compliance may not be extended for more than four years after the initial exemption has expired.

Section 142. Variances

This section adds new section 1415(e) to allow variances for systems serving 3,300 persons or fewer provided that the system installs the Best Available Affordable Technology (BAAT) and other specified conditions are met. BAAT is defined to be the most effective technology or other means available and affordable to small systems. EPA is required to identify any BAAT in regulations where "best technology or other means" is not listed for small systems under subsection 1412(b)(4)(E). The BAAT must come as close to achievement of such maximum contaminant level as practical or as close to the level of health protection provided by such treatment techniques as the case may be. To the extent possible, within 36 months after enactment, the Administrator must identify BAAT for existing regulations and give priority to evaluating several specified contaminants. BAAT must be installed within two years after a variance is granted. The term of a variance may not exceed five years, but may be renewed for additional five year periods if the State determines that the necessary conditions are met. Variances are not available for regulations issued before 1986 or for microbial contaminants.

Section 151. Lead plumbing and pipes

Section 151 revises section 1417 to expand the lead ban provisions to prohibit the use of any pipe, pipe or plumbing fitting or fixture, solder or flux in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption that is not lead free. In addition, the provision provides that two years after enactment, it shall be unlawful to sell (or otherwise introduce into commerce) pipes and pipe or plumbing fittings or fixtures that are not lead free, except for pipes that are used in manufacturing or industrial processing. The provision also bans persons in the business of selling plumbing supplies, except manufacturers, from selling solder or flux that is not lead free and requires any person selling solder or flux to label the product to indicate that it is illegal to use this solder or flux in the installation or repair of any plumbing providing water for human consumption.

The focus of these changes is to prevent the contamination of the drinking water supply by lead that has leached from pipes, faucets and other fixtures incidental to the delivery of potable water. It is the intent of the Committee that the terms pipe and plumbing fittings and fixtures in the legislation are in reference to drinking water applications. The ban on lead pipes or plumbing fittings or fixtures does not apply to manufacturing or industrial uses which do not involve the delivery of potable water, such as sewer systems or manufacturing processors or production units.

New section 1417(e) provides that if voluntary standards for lead leaching from new plumbing fittings and fixtures are not established within one year after enactment of the Safe Drinking Water Act Amendments of 1996, then the Administrator, within two years, must issue regulations setting a performance standard establishing maximum leaching levels for fixtures intended to dispense water for human consumption. Alternatively, if regulations are required but not issued within five years of enactment, the bill

bans the use of such plumbing fitting or fixtures that contain more than four percent lead.

Section 161. Capacity development

The Committee recognizes the importance of efforts to ensure that public water systems maintain the technical, managerial, and financial capacity to comply with the requirements of the Safe Drinking Water Act. Currently, some public water systems do not have the capacity to comply with existing health and safety requirements. Many systems will need to further develop their capacity to meet future challenges, including both new treatment requirements and repair of deteriorating distribution systems.

The Committee notes that some States have already undertaken a broad array of strategies to provide for the capacity development of public water systems. As demonstrated by these States, there are many options available to address the problems experienced by public water systems, including operator training, financial planning, changes in the source of water supply, and restructuring.

In general, the bill requires each State to adopt legal authority or other means to ensure that new community and non-transient, non-community water system have the technical, financial, and managerial capacity to comply with the Act, to maintain a list of the systems that are in significant noncompliance with requirements of the Act, and to develop and implement a capacity development strategy to assist public water systems in acquiring and maintaining the technical, managerial, and financial means to comply with the requirements of the Safe Drinking Water Act.

This section adds new section 1419 to assist States in ensuring the capacity of community and nontransient, noncommunity water systems to comply with the Act. States are required to obtain legal authority to ensure that new systems commencing operation after October 1, 1999, have the technical, managerial, and financial capacity to comply with drinking water regulations.

Beginning one year after enactment, States are required to submit to EPA a list of systems that have a history of significant noncompliance. Within five years after enactment, States must report to EPA on the success of enforcement actions and capacity development efforts to improve capacity. Within four years after enactment, States must develop and implement a strategy to assist systems in developing and maintaining compliance capacity. State agencies must submit to their Governors, and make available to the public, periodic reports on the strategy and progress being made toward improving the capacity of systems in the State.

As set forth in section 1419(c), a State capacity development strategy includes criteria to identify systems that need assistance, methods to improve capacity and the means to measure progress in developing capacity. Under section 1419(c)(3), the State agency with primary enforcement responsibility is to report to the Governor on the effectiveness of the strategy two years after it has been adopted and every three years thereafter.

The capacity development strategy required by new section 1419(c) is intended to encourage States to continue to focus resources on proven capacity development initiatives. Under section 1419(c)(2), States are required to consider, solicit public comment

on, and include as deemed appropriate by the State, a number of elements and criteria.

The Committee does not expect that every State will adopt the same capacity development strategy and does not expect States to include elements in section 1419(c) that the State determines are not appropriate. It is not expected that every State will give the same consideration to each of the elements listed in section 1419(c). Rather, the Committee expects that, as suggested by existing State capacity development programs, State capacity development strategies developed under this section will vary according to the unique needs of the State. The Committee encourages this diversity and indicates that EPA should give deference to a State's determination as to content and manner of implementation of a State plan, so long as the State has solicited and considered public comment on the listed elements and has adopted a strategy that incorporates appropriate provisions.

To underscore the importance of the capacity development tasks included in these provisions and to ensure that SRF funds are focused on States where capacity development is being addressed, the Committee has linked capacity development to the SRF in two ways: First, the Committee has included set aside funding to support State capacity programs. This funding will augment funds that are already available to States to carry out primacy responsibilities. Second, the Committee also is including in the SRF title a provision which allows EPA to withhold 20 percent of a State's SRF funds unless a State has met the requirements of section 1418 relating to capacity development. However, to clarify EPA's role in this regard, the bill includes specific language providing that the decisions of a State regarding whether any particular public water system should take certain actions under the State's capacity development plan are in the sole discretion of the State and are not subject to review by EPA and may not serve as the basis for withholding funds under section 1452(a)(1)(H)(i).

The section also places several burdens on EPA to assist States in the development of their capacity development programs. This section further directs the Administrator to provide informational assistance to support States in developing strategies, and to include in drinking water regulations an analysis of the likely effect of a new or revised national primary drinking water regulation on public water systems' compliance capacity. Within two years, the Administrator is also required to issue guidance, developed in consultation with the States, describing legal authorities and other means that States can use to ensure that all new systems demonstrate capacity to comply with the Act.

TITLE II—AMENDMENTS TO PART C

Section 201. Source water quality assessment

The Committee recognizes that source water protection can be a cost-effective strategy for ensuring safe drinking water supplies. Development of a new water supply may be expensive and time-consuming. Poor source water supplies also increase the costs of treatment for both large and small water systems. To address source water protection, the bill creates a new program in which

States with primacy will conduct an assessment, coordinated with existing information and programs, to determine the vulnerability of sources of drinking water with State boundaries. A separate provision in the SRF section provides that SRF funds may be used, subject to the limitations contained in section 1452, to administer State source water protection programs except for enforcement actions, to provide loans for public water systems to acquire land or conservation easements from a willing seller or grantor for source water protection, and to provide loans to voluntary, incentive-based programs designed to protect source water from threats identified during the assessment.

To avoid duplication and encourage efficiency, source water assessment programs shall be coordinated with other existing programs to the extent practicable, and may make use of information in these programs, such as delineations of ground water sources under a State wellhead protection program, State pesticide management plan, or State watershed initiative.

Section 201(a) adds a new subsection to section 1428. The new subsection provides that within 12 months of enactment, EPA is to publish guidance for States that exercise primary enforcement responsibility for public water systems to carry out a source water assessment program. As part of the program, the State shall delineate the boundaries of areas from which one or more public water systems in the State receive supplies of drinking water and identify, to the extent practical, the origin of regulated drinking water contaminants to determine the susceptibility of public water systems to contaminants. The State may include in its assessment the origin of any unregulated contaminant selected by the State in its sole discretion and which the State, for purposes of this subsection, determines may present a threat to public health.

Within 18 months after issuance of the EPA guidance, States are required to submit a source water assessment program to the Administrator for approval. States shall immediately implement a source water assessment program following approval. States have two years from the date of approval for completion of the assessment of delineated source water areas. In setting a timetable for a State to complete assessments, EPA shall consider the availability of State Revolving Funds and may extend the time allowed by an additional 18 months. The State shall make the result of source water assessments available to the public. Public water systems shall be eligible for monitoring relief under section 1418(a) only after assessments are completed for areas from which they receive supplies of drinking water.

New subsection 1428(l)(5) requires the Administrator to conduct a demonstration program concerning the most effective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

Section 201(b) amends section 1428 to provide procedures for EPA approval and disapproval of State source water assessment programs. A State program shall be approved unless the Administrator determines within nine months that the program does not meet the applicable requirements of section 1428(l).

Section 202. Federal facilities

The Federal Government owns or operates more than 4,200 public drinking water systems at military bases, National parks and other Federal facilities. The number of Federal systems cited for violations increased from 830 in FY 1991 to 946 in FY 1994.

Federal agencies also own or operate facilities in wellhead protection areas. These facilities—both civilian and military—routinely generate, manage and dispose of large quantities of hazardous waste containing acids, nitrates, solvents, radioactive materials and heavy metals which can impact the safety of drinking water supplies. The Committee's efforts to ensure the compliance of Federal facilities with various Federal environmental statutes extends back several Congresses.

Section 202(a) adds a new section 1429 to the Act to reaffirm in more explicit language the original intent of Congress that each department, agency, and instrumentality of the United States be subject to all of the provisions of Federal, State, interstate and local laws with respect to drinking water and protection of wellhead areas. This broad waiver is modeled on the waiver of sovereign immunity for Federal agencies under Section 6001 of the Solid Waste Disposal Act as adopted in the Federal Facility Compliance Act of 1992 (P.L. 102–386).

This waiver subjects the Federal government to the full range of available enforcement tools, including, but not limited to, the mechanisms specifically listed in the language of new section 1429, to penalize isolated, intermittent or continuing violations as well as to coerce future compliance. By subjecting the Federal government to penalties and fines for isolated, intermittent, or continuing violations, the waiver also makes it clear that the Federal government may be penalized for any violation of Federal, State, interstate, or local law whether a single or repeated occurrence, notwithstanding the holding of the Supreme Court in *Gwaltney of Smithfield, LTD* v. *Chesapeake Bay Foundation, Inc.,* 484 US 49 (1987).

The Committee intends that any penalties or fines assessed are to be paid from the Agency's appropriations and not from the Judgement Fund. This will assure the proper measure of accountability for Federal agencies and assist in deterring future violations of drinking water laws and regulation.

New section 1429 further provides that agents, employees, or officers of the United States shall not be personally subject to civil penalties but shall not be immune from enforcement of injunctive relief or criminal sanctions.

New section 1429 provides that the President may exempt a Federal facility from requirements covered by this Act but may not do so due to lack of appropriation.

The Administrator is given new authority under this section to assess administrative penalties, not to exceed $25,000 per day per violation, against Federal agencies found to be in violation after the effective date of the Act, of the specified requirements of the Act. EPA is required to provide the Agency with notice and an opportunity for a hearing prior to issuance of an administrative penalty. The section authorizes any interested person to obtain judicial review of an administrative penalty in the U.S. District Court. The District Court may impose an additional civil penalty for a viola-

tion that is subject of the order only if the court finds that the assessment constitutes an abuse of discretion by the Administrator but the District Court is not authorized to reduce any such penalty.

Fines and penalties collected by a State for enforcement of this Act against a Federal facility are to be used only for projects to improve or protect the environment or to defray the costs of environmental protection or enforcement.

Section 202(b) amends the citizen enforcement provisions of the Act, Section 1449, to permit citizen suits against Federal agencies that fail to pay a penalty assessed by EPA under the new administrative penalty provisions of the law.

TITLE III—GENERAL PROVISIONS REGARDING SAFE DRINKING WATER ACT

Section 301. Operation certification

Section 301 adds new subsection 1442(f) setting forth operator certification requirements. Under this new subsection, the Administrator, in consultation with States, is required to issue regulations specifying minimum standards for certification of operators of community and nontransient noncommunity public water systems, taking into account existing State programs, the complexity of the system, reasonable costs, system size, and other factors. States are given two years to implement EPA regulations following their promulgation. The regulations must allow primacy States with substantially equivalent programs in effect on the date of enactment of this Act to enforce that program in lieu of EPA regulations. Existing State programs are presumed to be substantially equivalent, notwithstanding differences based on size or the quality of source water.

The Committee recognizes that all of the 50 States currently have operator certification programs in place, although the specific requirements of programs vary from State to State. Such programs have developed out of a recognition by States and public water systems that properly trained operators are an important and cost-effective part of providing safe drinking water to the public. In a similar fashion, the Committee recognizes that operator certification programs are an important element in the effective implementation of the Safe Drinking Water Act.

The differences in State programs are due to the fact that State programs have developed at different rates and in response to different needs, including variations in the size of systems, the quality of source water available to systems, and resources available to develop and maintain such programs. New section 1442(f) provides that EPA's regulations for operator certification must take into account existing State programs, the complexity of the system, and other factors designed to provide an effective program at reasonable costs to States and public water systems, taking into account the size of the system. The Committee anticipates that such regulations will provide States with a great deal of flexibility in ensuring that operators of community and non-transient noncommunity public water systems are properly trained.

New section 1442(f)(3) provides that EPA shall presume that an existing State program is substantially equivalent to the minimum

requirements developed under new section 1442(f)(1), notwithstanding program differences based on the size of systems or the quality of source water, providing that State programs meet the overall public health objectives of the regulations. The Committee intends that EPA should not require every State program to meet the same requirements with respect to such items as operator training, the qualification of operators, continuing education, and operator certification, providing State programs meet the overall public health objectives of the regulations promulgated under 1442(f)(1). The requirements promulgated by EPA under this section are to provide a framework with which State operator certification programs can, where necessary, be improved to help ensure that all systems are operated by appropriately trained individuals. In addition, the requirements promulgated by EPA should not be construed to require that all community water systems and nontransient, noncommunity water systems must have a certified operator on site at all times. Where it is appropriate, the Committee intends that States shall consider other mechanisms such as sharing of operator expertise among several systems or requiring periodic visits to a system by a certified operator. It should also be recognized that for some systems, particularly small systems that do not provide treatment, it may be sufficient for the State to determine that a person need only to be "qualified" not "certified" to conduct necessary sampling or perform other activities.

To underscore the importance of the operator certification requirements included in these provisions, the Committee has linked operator certification to the State Revolving Fund in two areas. First, section 308 includes set-aside funding to support State operator certification and training programs. This funding augments funds that are already available to States to carry out primacy requirements. Second, section 308 allows EPA to withhold 20 percent of a State's capitalization grant if a State has not met the requirements of subsection (f) of section 1442.

Section 302. Technical assistance

This section amends section 1442(e) to authorize EPA to provide technical assistance for small public water systems (including circuit-rider programs, training, and preliminary engineering evaluations) in the amount of $15 million for Fiscal Years 1997 through 2003. Of the appropriated amount, 3 percent must be used for technical assistance to systems owned or operated by Indian tribes. No portion of funds provided under this subsection or under section 1452 (relating to SRF funds) may be used either directly or indirectly for lobbying expenses.

Section 303. Public water system supervision program

This section amends section 1443(a)(7) to reauthorize State public water system supervision (PWSS) program grants in amount of $100 million for each of Fiscal Years 1997 through 2003. New paragraph (8) provides that EPA may use a State's PWSS funds if EPA assumes primary enforcement responsibility for a State program. New paragraph (9) authorizes EPA to reserve a portion of SRF funds from such a State if the PWSS grant appropriation is insufficient for EPA to fully administer a program in such a State. This

authority to reserve SRF funds does not apply to any State not exercising primary enforcement responsibility as of the date of enactment of these amendments.

Section 304. Monitoring and information gathering

This section revises monitoring and information gathering requirements under the Act.

Section 304(a) amends section 1445(a) concerning the Administrator's authority to gather information. New subparagraph 1445(a)(1)(B) gives the Administrator authority to obtain information in a case-by-case basis, to determine whether a person who is subject to a national primary drinking water regulation under section 1412 has acted or is acting in compliance with such requirements. Such person is required to provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located (if such State has primary enforcement responsibility for public water systems) to determine, on a case-by-case basis, whether such person has acted or is acting in compliance with this title.

New subparagraph 1445(a)(1)(C) requires every person who is subject to a national primary drinking water regulation under section 1412 to provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title. The amendments contained in this Act will impose on the Administrator new prerequisites for issuing regulations. This new authority is intended to allow the Administrator to gather some of the necessary information without issuing a regulation. To insure that the Administrator's requests for information under this authority are appropriate, the bill requires the Administrator to consult with the States and suppliers of water before exercising this authority and to first seek to obtain the information by voluntary submission. In order not to impose significant burdens on persons covered by this new authority, the Administrator may not require the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides funding for such activities. The Committee believes that the Agency will receive the most useful information in the most timely manner if the Administrator and the person work together voluntarily.

Nothing in the new authority in subparagraph 1445(a)(1)(C) is intended to waive any requirement of the Paperwork Reduction Act.

Section 304(a) also amends section 1445(a) to require EPA to review monitoring requirements for at least 12 contaminants and make any necessary changes within two years.

Section 304(b) adds a new section 1418 to the Act on contaminant monitoring. Subsection 1418(a) authorizes States to modify monitoring requirements for systems serving 10,000 or fewer persons for contaminants (other than microbial contaminants, disinfectants and disinfection byproducts, or corrosion byproducts). A State may provide this interim monitoring relief if the contaminant is not detected in initial monitoring, and the State determines (considering the hydrogeology of the area and other relevant factors)

that the contaminant is not likely to be detected in further monitoring. The interim relief is available for 3 years following enactment or until the State has adopted permanent relief, whichever is sooner.

New subsection (b) authorizes a primacy State with an approved wellhead protection program and a source water assessment program to adopt permanent alternative monitoring requirements for chemical contaminants. A State alternative monitoring program must be consistent with EPA guidelines and ensure compliance with drinking water regulations. In order to qualify for alternative monitoring, a public water system must show a State that a contaminant is not present in a drinking water supply or, if present, it is reliably and consistently below the MCL.

The provision defines "reliably and consistently below the maximum contaminant level" to mean that, even though the State has detected a contaminant, the State has sufficient knowledge to predict that the MCL will not be exceeded. In making this determination, the State must consider: (1) the quality and completeness of the data; (2) the length of time covered and the volatility or stability of monitoring results during that time, and; (3) the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to meet this standard.

New subsection (c) specifies that all monitoring relief granted by a State shall be treated as part of the drinking water regulation for that contaminant.

Section 304(c) further amends section 1445(a) provisions governing monitoring for unregulated contaminants. Within 3 years after enactment and every 5 years thereafter, EPA must issue a list of not more than 40 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base. EPA must include on the list any contaminants recommended in a petition signed by the Governors of at least 7 States unless the Administrator determines the listing of contaminants recommended by the Governors would prevent this listing of other contaminants of a higher public health concern. States may develop representative monitoring plans for systems serving fewer than 10,000 people, and EPA shall make funds appropriated under section 1445(a)(2)(H) to pay for testing and analysis costs under these plans. Subparagraph (H) authorizes $10 million for each of Fiscal Years 1997 through 2003. Public water systems are required to report the results of monitoring for unregulated contaminants to the State, and notification of the availability of the results must be given to the system's customers and EPA. The Administrator shall waive monitoring requirements for an unregulated contaminant if the State demonstrates that the criteria for listing the contaminant do not apply in that State (subparagraph (F)). Subparagraph (G) authorizes States to use screening methods approved by the Administrator (under section 304(d)) in lieu of monitoring for particular unregulated contaminants.

Section 304(d) requires EPA to review new analytical methods to screen for regulated contaminants and authorizes EPA to approve such methods that are more accurate or cost-effective than the established reference methods for use for compliance monitoring.

Section 305. Occurrence data base

In recognition of the need to develop comprehensive and reliable information regarding the occurrence of contaminants in drinking water, the bill establishes a national occurrence data base to be developed and operated by EPA. Specifically, the section adds new subsection 1445(g) to direct EPA, within three years of enactment of these amendments, to assemble and maintain a national drinking water occurrence data base that includes information derived from public water system monitoring of regulated and unregulated contaminants and from other sources. The provision provides that EPA shall use the data base as a factor in making determinations under section 1412(b)(3) with respect to the occurrence of a contaminant in drinking water at a level of public health concern. In establishing the occurrence data base, the Administrator is required to solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data. The Committee believes that the solicitation of recommendations on these and related issues is important to ensure that the Administrator develops and maintains an occurrence data base which is both useful and manageable.

New subsection 1445(g) also requires EPA periodically to solicit recommendations from the National Academy of Sciences and the States for contaminants that should be included in the data base. Any person may also submit recommendations. All such recommendations shall be accompanied by reasonable documentation that the contaminant occurs or is likely to occur in drinking water and the contaminant poses a risk to public health. The bill also explicitly states that information in the data base be made available to the public in a readily accessible form.

Section 306. Citizens suits

This section amends section 1449 to indicate that pending State, as well as Federal, court actions to require compliance may serve as a bar to civil actions.

Section 307. Whistle blower

This section amends subsection 1450(i) to extend from 30 days to 180 days the timeframe for an employee to file a discrimination complaint and to make other changes. It provides that the Secretary of Labor, upon conclusion of a hearing and the issuance of a recommended decision that the complaint has merit, shall issue a preliminary order providing relief under clause (ii) (e.g., reinstatement, back pay) but may not order compensatory damages pending a final order. It further directs the Secretary to dismiss a complaint and not conduct an investigation unless the complainant has made a prima facie showing that the complainant's role in an enforcement action was a contributing factor in the alleged unfavorable personnel action. The Secretary may determine that a violation has occurred only if the complainant has demonstrated that the involvement in an enforcement action was a contributing factor alleged in the unfavorable personnel action. The bill further pro-

vides that relief may not be ordered if the employer demonstrates that it would have taken the same personnel action in the absence of such behavior.

Section 307(b) establishes that this provision applies to complaints filed on or after the date of enactment of these amendments.

Section 308. State revolving funds

This section establishes a new section 1452 of the Act creating a State Revolving Fund (SRF) program to provide financial assistance to facilitate compliance with national primary drinking water standards and for projects to further the health protection objectives of the Safe Drinking Water Act.

The Administrator is directed to enter into capitalization grant agreements with eligible States. Before receiving a grant, States are to establish a drinking water treatment revolving loan fund, into which Federal capitalization grants will be deposited. States must agree to deposit in the fund an amount of State funds equal to 20 percent of the total amount of the capitalization grant. State matching funds are to be deposited on or before the date of a grant payment, except that matching funds for Fiscal Years 1994, 1995, 1996, and 1997 must be deposited the earlier of the date on which a grant payment is made or no later than September 30, 1998.

The bill authorizes $599 million annually for Fiscal Years 1994 and 1995 and $1 billion annually in Fiscal Years 1996 through 2003 for capitalization grants under this section.

Federal capitalization grants shall be available to the State for obligation for a period of 2 fiscal years (the year of the award and the following fiscal year). Grants made available from funds appropriated prior to enactment of this bill shall be available for obligation during Fiscal Years 1997 and 1998.

Each SRF shall be established, maintained and credited with repayments and interest so that the fund balance is available in perpetuity. Funds not required for current obligation are to be invested in interest-bearing obligations.

For Fiscal Years 1995, 1996, and 1997, capitalization grants are to be distributed to States using the same formula used to distribute public water system supervision grant funds in Fiscal Year 1995. No State shall receive less than 1 percent of available funds. For Fiscal Years 1998 and thereafter, capitalization grants are to be allocated to States proportional to needs identified in the needs survey required by this section. Subject to certain conditions, grants not obligated within the time period specified in the bill are to be reallotted to other States using the same criteria that governed allocation of the grants originally.

In States which do not exercise primary enforcement responsibility for public water systems, funds shall be allotted by the Administrator. The Administrator shall allot 20 percent of the State's allotment for purposes of exercising primary enforcement responsibility and shall allot the remaining funds to other primary enforcement States for deposit in those States' SRFs. If the Administrator makes a final determination that a State is not meeting the requirements of section 1413(a) of the Act, additional grants to that State are to be immediately terminated.

Beginning in Fiscal Year 1999, the Administrator is required to withhold 20 percent of capitalization grants to a State which has not met the requirements of the Act concerning capacity development. The Administrator must withhold an additional 20 percent if a State has not met the requirements of the Act concerning operator certification. All funds withheld are to be reallotted by EPA to other States on the basis of the same ratio of funds that governed allocation of the grants originally.

A State may use amounts in the Revolving Fund only to make loans, loan guarantees, or as a source of reserve and security for leveraged loans, or other authorized assistance to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance provided by the SRF may be used by a public water system to facilitate compliance with applicable national primary drinking water regulations or to otherwise significantly further the health protection objectives of the Act. Loans (including loan guarantees) also may be provided to systems which are not public water systems (as defined in new section 1401(4)(B) of the Act) in order to provide water for residential uses that is equivalent to that provided by the applicable national primary drinking water regulation. Capitalization grant funds may not be used for monitoring, operation, and maintenance expenditures and may be used for acquisition of real property only to the extent the property is integral to a project and is purchased from a willing seller. States are required to reserve 15 percent of available funds to provide loan assistance to public water systems which serve fewer than 10,000 persons.

Section 1452(a)(3)(A) provides that financial assistance shall not be provided to a public water system under two circumstances, without first meeting the requirements of section 1452(a)(3)(B). First, funds may not go to a public water system which is in significant noncompliance with any requirement of a national primary drinking water regulation or variance. Second, assistance may not be provided to a public water system that does not have the technical, managerial, and financial capability to ensure compliance with requirements of the Act.

Section 1452(a)(3)(B) provides that the prohibition on funding in section 1452(a)(3)(A) will not apply if two conditions can be met. First, the use of the assistance will ensure compliance. Second, the owner or operator of the system agrees to undertake feasible and appropriate changes to ensure that the system has the capability to comply with the requirements of the Act over the long term (if the State determines that such measures are necessary).

Each State is required to prepare a plan for the intended uses of amounts available in the Revolving Fund. The plan shall include a list of projects to be assisted, criteria and methods established for distribution of funds, and a description of the financial status of the SRF and its short-term and long-term goals. To the maximum extent practicable, the plan must give priority to projects that address the most serious risk to human health, are necessary to ensure compliance with the Act, and will assist systems with the greatest financial need. In preparing its intended use plan, the State may take into account the readiness of projects for financing. The State must provide an opportunity for public comment on the

use of the funds and must publish and periodically update a list of projects in the State that are eligible for assistance, their priority, and expected funding schedule.

A State may provide additional subsidization (including forgiveness of principal) on loans made to a disadvantaged community (according to affordability criteria established by the State) or to a community that the State expects to become disadvantaged as a result of a proposed project. Loan subsidies resulting from this provision may not exceed 30 percent of the amount of capitalization grant received by the State for that year.

For administrative convenience and where not prohibited by other law, States may combine the financial administration of a drinking water Revolving Fund with that of any other revolving fund established by the State, so long as grants, loan repayments and interest are accounted for separately and oversight responsibility is maintained by the State agency responsible for public water system supervision under the Act.

Under section 1452(g)(1), States may reserve annually up to 4 percent of allotted capitalization grant funds to cover the reasonable costs of administering programs under this section and to provide technical assistance to public water systems. Beginning with Fiscal Year 1995, States with primary enforcement responsibility may use up to an additional 10 percent of allotted funds for public water system supervision programs, to administer and provide technical assistance through source water protection programs, operator certification programs, and to develop and implement a capacity development strategy.

Funds for source water protection under subsection 1452(g)(1)(B) shall not be used for purposes which do not facilitate compliance with drinking water standards or otherwise significantly further the health protection objectives of the Safe Drinking Water Act. States may not use such funds for enforcement actions. Rather, the Committee encourages the implementation of voluntary incentive-based measures where local communities, farmers, and upstream entities can work together.

To use the additional funds under 1452(g)(1) for the described activities, the State is to match such expenditures with an equal amount of State funds, and at least one-half of the matched funds must be additional to amounts expended by the State for public water supervision in Fiscal Year 1993. Additionally, States are to reserve annually 1 percent of allotted funds to provide technical assistance to public water systems.

The Administrator is directed to publish guidance and promulgate regulations as necessary to carry out section 1452. Such guidance or regulations must include provisions to ensure that each State commits and expends funds as efficiently as possible in accordance with this Title and applicable State law. The Administrator must publish guidance to prevent waste, fraud and abuse. Additionally, due to the limited funding available for capitalization grants compared with the need of many systems for funds simply to comply with the requirements of this Act, the Administrator is required to publish guidance to avoid the use of funds to finance the expansion of any public water system in anticipation of future population growth.

Under section 1452(k), a State may reserve 15 percent of the capitalization grant amounts for certain set-asides. However, no more than 10 percent of a State's grant may be used for any single activity. Funds can be used to acquire land or conservation easements for the purpose of source water protection from willing sellers or grantors, to implement local, voluntary, incentive-based source water quality protection measures, to provide assistance as part of a capacity development strategy, to make expenditures to conduct a source water assessment in accordance with 1428(l), and to make expenditures to establish and implement wellhead protection programs.

As discussed above, the Committee recognizes that source water protection can be a cost-effective strategy for ensuring safe drinking water supplies. Therefore, subparagraph 1452(k)(1)(A)(ii) provides that a State may use up to 10 percent of its annual capitalization grant to provide loans to fund local, voluntary, incentive-based mechanisms for source water protection.

Funds provided under subparagraph 1452(k)(1)(A)(ii) may be used only for voluntary, incentive-based mechanisms whose purpose is to prevent the contamination of drinking water supplies. The purpose of this new authority is to encourage voluntary partnerships formed for the purposes of minimizing the contamination of drinking water supplies. For this reason, such funds may not be used to impose new regulatory requirements on potential sources of drinking water contamination. Likewise, such funds may not be used to enforce existing regulatory requirements on potential sources of drinking water contamination. Furthermore, nothing in this subsection is intended to create or convey any new regulatory authority to a State, political subdivision of a State, or a public water system, nor limit any authority such State, political subdivision or public water system may have under any other Federal, State or local authorities.

For example, major potential resources exist in a number of existing water quality-related programs through which technical, financial and other non-regulatory forms of assistance could be brought to bear in helping local partnerships address source water problems. Too often, either localities are unaware of these programs; or managers of such programs are unaware of local needs that may exist in source water areas. States could play an invaluable leadership role in facilitating local partnership efforts by (1) compiling and disseminating information profiling the various Federal and State water quality-related programs which may be potential sources of technical, financial and other non-regulatory forms of assistance; and (2) helping overcome barriers and coordinate such programs so that pressing local source water needs are taken into consideration when program managers make critical decisions among competing priorities regarding where to allocate or redirect scarce resources.

The Administrator is directed to publish guidance and promulgate regulations necessary to carry out this section, including with respect to use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

Each State must make a complete report to the Administrator every two years concerning the use of the fund, findings of the

most recent audit of the fund, and the State allotment. Also, the Administrator shall periodically conduct an audit of all Revolving Funds established by and amounts allotted to the States under this section in accordance with procedures established by the Comptroller General.

Within 180 days of enactment and every four years thereafter, the Administrator is to conduct an assessment and report to Congress on water system capitalization improvement needs of all eligible public water systems.

The Administrator may reserve one and one-half percent of amounts appropriated annually to make grants to Indian Tribes and Alaskan Native Village which are not otherwise eligible to receive assistance under this section. Not more than one percent of all SRF funds are to be reserved by EPA for drinking water infrastructure grant assistance to the District of Columbia, the Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Republic of Palau. EPA also may reserve up to two percent of amounts appropriated annually for technical assistance for small systems.

The State of Virginia is authorized to conduct an alternative demonstration program by providing loans from an SRF to a regional endowment fund to finance new drinking water facilities in certain southwestern Virginia communities that are experiencing economic hardship subject to approval by the Virginia General Assembly and EPA.

From funds appropriated, the Administrator is to reserve $10,000,000 per year for health effects studies, with priority given to studies of cryptosporidium, disinfection byproducts, arsenic, and studies of subpopulations at greater risk of adverse effects from exposure to drinking water contaminants.

Section 309. Water Conservation Plan

This section establishes a new section 1453 of the Act concerning water conservation. Within two years of enactment, the Administrator is to publish guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, serving between 3,300 and 10,000 persons, and serving more than 10,000 persons. With in one year thereafter, a State may require a public water system seeking a loan or grant from an SRF to submit a water conservation plan consistent with the EPA guidelines.

TITLE IV—MISCELLANEOUS

Section 401. Definitions

Section 401(a) amends section 1401(1)(D) of the definition of 'primary drinking water regulation' to authorize EPA, at any time after promulgating a regulation, to issue guidance allowing the use of other equally effective methods to comply with the monitoring requirements of the regulation.

Section 401(b) modifies the definition of a public water system to include the supplying of water for human consumption through pipes and "other constructed conveyances." The term "constructed conveyance" refers to transport systems such as ditches, canals, culverts, waterways and similar delivery systems that are man-

made and that transport large quantities of water in a utility network. The term does not include water delivered by bottle or in other package units, by vending machines or coolers and does not include water that is trucked or delivered by a similar vehicle.

Section 401(b) further modifies the definition of a public water system by excluding from consideration certain connections that might otherwise qualify a system as a public water system. Except as noted below, these exclusions only apply where the water is delivered by a constructed conveyance other than a pipe.

The first exclusion applies when water delivered by the constructed conveyance is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking) or other similar uses (Section 1401(4)(B)(i)(f)). The water supplied, in this case, is not allowed nor intended to be used for residential or simi lar uses; and, therefore the water system is excluded from this provision.

The second exclusion applies when water is provided by the system for residential or similar uses from another source such as bottled water or trucked water (Section 1401(4)(B)(i)(II)). To qualify for this exclusion, the alternative source of water for these uses must be provided (not merely be available). By requiring the altern ative supply of water to be "provided," the Committee does not intend the water to be provided for free of charge. As with a public water system, the water system may charge users for the reasonable costs of the water supplied.

The third exclusion applies where the water delivered by constructed conveyances is used for residential or similar uses, but the water is treated prior to use (See new section 1401(4)(B)(i)(III)). In this instance, the water may be treated centrally or at the point-of-entry to a residence or other facility where similar uses occur by the system, by a pass-through entity or by the consumer. As a general principle, the Safe Drinking Water Act does not allow a pubic water system to place the burden of compliance on the customer. However, the Committee recognizes that in several situations it may be appropriate to allow customers to assume this obligation. First, in some instances, customers who receive water from constructed conveyances have already taken it upon themselves to install point-of-entry units. In this case, a water system should not have to replace the unit or duplicate treatment. Second, in many rural areas, a water system that is constructed principally for irrigation or other agricultural and industrial uses may not desire to be regulated as a public water system and would decline to provide water to residential users if the system were required to provide the treatment centrally. Therefore, the obligation to treat the water to a level of public health protection equivalent to the applicable national primary drinking water regulation may be assumed by the consumer to assure that people living in rural areas are not precluded from obtaining the best quality water at an affordable cost.

To qualify for either of the two latter exclusions, the State (or the Administrator in the case of a State without primacy) must make the factual determination that the alternative water or treated water used for residential or similar uses actually achieves the equivalent level of public health protection provided by the applicable national primary drinking water regulation. This determination

is distinct from the question of who may bear the responsibility for actually providing treatment.

Generally, the bill excludes these two types of connections from consideration only where the connection is to a water system that conveys water by means other that pipes. Piped water systems may not avoid regulation as public water systems by providing bottled water or by treating at the point of entry. However, an exception is made for some piped water delivery systems that were in operation prior to May 18, 1994, and that were constructed principally for the purpose of agricultural service with only incidental use for human consumption. These piped systems are not to be considered public water systems if they comply with the requirements applicable under one or the other of the exclusions for alternative water or point of entry treatment available under section 401(b).

The Committee anticipates that this statutory scheme will result in the most economical supply of safe drinking water to consumers. The Committee anticipates, however, that the adoption of point-of-entry or other treatment, while perhaps providing an economical supply of drinking water over the long-term, may impose significant short-term costs on systems and consumers. Thus, section 1452(a)(2) makes providers eligible for loans for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). With the availability of such assistance, providers may be able to obtain technology at lower cost and pass those savings on to the customer.

The amendments to section 1401 concerning the definition of a "public water system" are not intended to alter the criteria for the related section 1411 "coverage" provision of the Safe Drinking Water Act. However, the Committee recognizes that some applications of section 1411 could inadvertently cause duplicative or unnecessary compliance activities for some systems that purchase finished water that is then submetered to encourage consumers to utilize a lesser volume of such water. The Committee agrees with the letter received from the Environmental Protection Agency, provided in the Appendix, that the current statutory language provides States with the flexibility to avoid duplication of compliance activities. Further, the Committee encourages EPA to review its guidance on such matters to prevent duplicative or unnecessary regulations that do not further public health protection and which could inhibit other goals which would reduce the volume of finished water needed.

Section 401 also requires the General Accounting Office to undertake a study to determine the number of individuals and households served by systems using the alternatives in new section 1401(4)(B), as well as the sources and costs of potable water they are provided. In addition, the GAO is to review State and water system compliance with the exclusion provisions. A report based on this effort is due within three years after enactment.

Section 402. Authorization of appropriations

This section authorizes appropriations to carry out the Act. Subsection (a) adds a new section 1402 which authorizes such sums as necessary to carry out provisions of the Act for the first 7 fiscal years following enactment of these amendments.

Subsection (b) authorizes $15,000,000 annually for Fiscal Years 1992 through 2003 for sole source aquifer demonstrations programs under section 1427. It also deletes the limitation that critical aquifer protection areas covered by this provision must be approved by EPA within 24 months of enactment of the 1986 Safe Drinking Water Act Amendments.

Subsection (c) authorizes $30,000,000 annually for Fiscal Years 1992 through 2003 for State wellhead protection programs under section 1428, and subsection (d) authorizes $15,000,000 annually for the same period for underground injection control program grants under section 1443(b).

The 1980 Amendments to the Safe Drinking Water Act established section 1425 in response to Congressional concerns about EPA proposed regulations regarding Class II injection wells, including stripper wells. Stripper wells, such as those found throughout Appalachia, are particularly sensitive to increased regulatory costs. On March 29, 1996, President Clinton signed Public Law 104–121 that, among other things, required greater flexibility and scrutiny of regulatory burdens respecting small business. The Committee expects that if EPA proposes additional injection well requirements, it should require a separate evaluation and subcategory for stripper wells operated by small businesses.

Section 403. New York City watershed protection program

This section adds a new subsection 1443(d) to authorize $15,000,000 per year annually for Fiscal Years 1997 through 2003 as financial assistance to the State of New York for demonstration projects to implement a watershed protection program for the New York City water supply system. Federal assistance under this subsection is limited to not more than 35 percent of total cost for any particular watershed or ground water recharge area.

In providing funds to the State of New York under this section, the Administrator is strongly encouraged to give priority to projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of various source water protection activities, or that establish watershed or basin-wide coordinating planning or governing organizations.

Section 404. Estrogenic substances screening program

This section amends Part F by adding a new section 1470 that mandates development and implementation of a program to identify and regulate pesticides that may have effects on humans similar to effects produced by naturally occurring estrogen or other endocrine effects. The bill also provides additional authority to require testing of other substances where such substances may be found in sources of drinking water and the Administrator determines that a substantial population may be exposed to the substance. It requires EPA to develop a screening program, using appropriate validated test systems and other scientifically relevant information, within two years and, after public comment and review by EPA's Scientific Advisory Board or the Scientific Advisory Panel, to implement the program within three years. Validation ensures that a test measures the end-point that it claims to measure and is repeatable by other laboratories. Testing for endocrine ef-

fects would apply to all active and inert ingredients in pesticide products that may be found in drinking water sources. EPA may exempt a substance from testing by order if it is not anticipated to produce an estrogenic effect in humans.

The Committee understands that scientific screening tests are generally used in laboratory evaluations of substances to determine if further analyses are warranted. Typically, a positive result from a screening test does not by itself confirm or deny that a substance will demonstrate the target characteristic. Different screening tests have different confidence limits and lower confidence limits than more complete evaluations. Further evaluations are necessary to characterize the significance and likelihood of adverse health effects, modes of exposure, biological mechanisms and dose-response relationships. The Administrator should ensure that risk communication involving information from screening tests convey the accurate meaning of the results of the screening test.

The bill directs EPA to order registrants, manufacturers, or importers to conduct tests under the screening program and to submit results to EPA. EPA can fulfill the order requirement by entering into enforceable consent agreements. EPA is to minimize duplicative testing to the extent practicable; develop, as appropriate, procedures for fairly and equitably sharing test costs; and develop, as necessary, procedures for handling confidential business information.

The bill provides for suspension of the sale or distribution of a substance by any registrant who fails to comply with a test order under this section concerning that substance. Unless the registrant complied fully with the order or requested a hearing, a suspension would become final in 30 days. Any hearing must be conducted in accordance with the formal adjudicatory hearing process of the Administrative Procedure Act (5 USC 554). Its only purpose would be to determine whether the person failed to comply with an EPA test order. Suspension must be terminated if the registrant fully complies with the test order.

Any other person subject to a test order who fails to comply with that test order is liable for penalties and sanctions as provided in the Toxic Substances Control Act (TSCA) section 16 (15 USC 2615). These penalties may include up to $25,000 per day in fines and, if the person knowingly or willfully violates an order, imprisonment for up to one year. A person assessed a fine may request a hearing and, if ordered to pay the fine after the hearing, may file a petition for judicial review of EPA's order.

If a substance is found to have an endocrine effect as a result of validated tests and evaluations, and as necessary to ensure protection of public health, Section 1470(f) requires EPA to take, as appropriate, action under existing statutory authority. This provision is not intended in any way to provide additional regulatory autho rity. Nor does the provision replace, modify, or expand any other provision of existing authorities. Hence no standard of protection under existing authority is changed in any way by this provision. Appropriate action may be, or include, further testing or study.

EPA must report to Congress within 4 years on its findings from the screening program and any recommendations for further testing and actions. Finally, the bill states that the section does not

amend or modify TSCA or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 USC 136 et seq.).

Section 405. Reports on programs administered directly by Environmental Protection Agency

This section requires EPA to report every two years to Congress on the implementation of this Act for States and Indian Tribes where EPA has revoked primary enforcement responsibility.

Section 406. Return flows

This section clarifies that water supplies from a public water system regulated under this Act shall not be used in connection with operation of residential and commercial geothermal heat pumps.

Section 407. Emergency powers

This section amends section 1431(b) of the Act to increase the existing penalty for violating an emergency order issued under this section from $5,000 per day to $15,000 per day.

Section 408. Waterborne disease occurrence study

This section requires EPA and the Centers for Disease Control and Prevention (CDC) to establish pilot waterborne disease occurrence studies for at least five major U.S. communities or public water systems and report on findings. EPA and CDC also are required to establish a training and public education campaign for professional hea lth care providers about waterborne diseases that may be caused by infectious agents.

Funds totaling $3,000,000 annually for Fiscal Years 1997 through 2003 are authorized to carry out these studies, and EPA is authorized to use not more than $2,000,000 annually out of funds reserved under new section 1452(n) (the SRF provisions of the Act), to the extent funds under this section are not fully appropriated. EPA may transfer a portion of funds to the CDC.

Section 409. Drinking water studies

This section authorizes several specific health effects studies.

Subsection (a) directs EPA to conduct a continuing program of studies to identify groups within the general population at greater risk of adverse health effects from exposure to contaminants in drinking water.

Subsection (b) directs EPA to study the biomedical mechanisms by which chemical contaminants cause adverse effects among humans, especially subpopulations at greater risk. These studies also are to develop new approaches for studying complex mixtures, synergistic and antagonistic interactions, and noncancer endpoints and infectious diseases.

Subsection (c) directs EPA to conduct studies which the parties to the negotiated rulemaking agreed are necessary to support the development and implementation of the enhanced surface water treatment rule, disinfectant and disinfection byproduct rule, and ground water disinfection rule.

Funds totaling $12,500,000 annually for Fiscal Years 1997 through 2003 are authorized in this section to carry out the required drinking water studies. In addition, funds for the studies

are authorized in new section 1452, State Revolving Funds for drinking water infrastructure.

Section 410. Bottled drinking water standards

This section modifies section 410 of the Federal Food, Drug and Cosmetic Act to add a new subsection (b) to require the Secretary of the Department of Health and Human Services (the Secretary) to establish standard of quality regulations for bottled water for each contaminant for which a national primary drinking water regulation is issued by the Administrator, unless the Secretary determines that such a standard of quality regulation is not necessary because the contaminant is contained in water in public water systems but not in water used for bottled drinking water.

New subsection (b) provides that not later than 180 days before the effective date of a national primary drinking water regulation (not including extensions under section 1412(b)(10)), the Secretary shall either promulgate a standard of quality regulation for that contaminant or contaminants, including monitoring requirements, or make a determination that such a regulation is not necessary.

The effective date for any standard of quality regulation promulgated under this subsection shall be the same as the effective date for the national primary drinking water regulation for the contaminant, except for any standard of quality regulation promulgated by the Secretary before the date of enactment of the Safe Drinking Water Act Amendments of 1996 for which (as of such date of enactment) an effective date had not been established. In March 1996, the Secretary promulgated standard of quality regulations for 22 contaminants. However, the Secretary stayed the effective date for nine of these contaminants in order to gather additional information on the appropriate monitoring requirements. Under new subsection (b), the Secretary is required to promulgate monitoring requirements for the contaminants covered by such regulations not later than two years after the date of enactment of these amendments. These monitoring requirements would become effective not later than 130 days after the date on which the monitoring requirements are promulgated.

New subsection (b) requires the Secretary to establish a level for the contaminant in bottled water which is no less stringent than the maximum contaminant level provided in the national primary drinking water regulations for the same contaminant or requirements which are no less protective of public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

Finally, if the Secretary does not promulgate a standard of quality regulations within the time period described above, the national primary drinking water regulation for such contaminant shall be considered as the regulation applicable under this subsection to bottled water. In the case of a national primary drinking water regulation that is considered to be a standard of quality regulation pursuant to new subsection 410(b)(4)(A), the Secretary is required to publish a Federal Register notice specifying the contents of such regulations, including monitoring requirements, and providing that the effective date for such regulation shall be the effective date of

the national primary drinking water regulation (except for standard of quality regulations promulgated before the date of enactment of these amendments but for which the effective date was stayed, in which case the effective date shall be not later than two years and 180 days after the date of enactment of these amendments).

Section 411. Clerical amendments

This section provides miscellaneous clerical amendments to the Act.

AGENCY VIEWS

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, June 11, 1996.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I applaud your work and the efforts of other key members of the Committee on Commerce to reach bipartisan agreement on a strengthened Safe Drinking Water Act (SDWA). As you prepare for Full Committee mark-up and future steps in the legislative process, I would like to provide you with the Environmental Protection Agency's (EPA) initial views on the bill reported by the Subcommittee on Health and Environment, as well as an assessment of EPA's ability to implement provisions of the bill.

Ensuring the safety of the water we drink every day is one of the most fundamental responsibilities of government, and one of President Clinton's top environmental priorities. In September 1993, the Administration sent to Congress ten recommendations for SDWA reauthorization. We seek a reauthorized Act that provides responsible regulatory improvements coupled with stronger "preventive" approaches and public information along with increased State and local funding—all of which will improve public health protection.

The Committee's bill achieves these goals by drawing on many of the strongest elements of the Senate bill, S. 1316, while making essential improvements in several key areas. The Committee's improvements in the area of "prevention" are perhaps the most significant. The bill reflects the Administration's recommendations to fundamentally improve the ability of water systems and States to *prevent* drinking water safety problems and *avoid* public health endangerment in the future. Preventing pollution of drinking water sources in the first place can reduce the cost of treating water "after the fact." The bill provides for the delineation and assessment of source water areas, as in the Senate bill, but provides States with extensive flexibility to develop and fund their own source water protection programs and local protection projects. We strongly support this flexibility; State and local initiatives should not be stifled by overly prescriptive statutory requirements. In addition, the bill strengthens small system assistance, operator training and certification, and State programs to encourage greater technical, financial, and managerial capacity among the nation's water systems.

We applaud the Committee for including provisions to improve consumer awareness. Public access to information on drinking water safety is long overdue. We are also pleased to see the Committee has included an estrogen screening program that will advance our understanding of endocrine disruptors and their potential health effects. These provisions and the stronger prevention focus in the bill, if passed into law, would signal a revitalized national commitment to meet the challenge of safe and affordable drinking water long into the future.

The Committee's bill, like the Senate bill, includes several provisions that address current implementation problems faced by water systems, States, and EPA—most notably, monitoring flexibility, workable exemptions, small system assistance, small system technology variances, and more funding for States. The bill also establishes the Drinking Water State Revolving Fund (SRF) proposed by President Clinton, which will provide funding to communities to improve drinking water safety. I am concerned, however, that the total level of "taps" from the SRF to fund specific activities will limit the availability of dollars needed for building a permanent source of revolving funds.

Finally, the Committee's bill builds upon the Senate's balanced framework for selecting contaminants and setting standards, but eliminates duplicative procedural hurdles that could cause unnecessary delays in future safety standards. The bill also has a special provision to preserve the balanced framework that was agreed upon as part of a negotiated rulemaking for setting future standards for disinfection byproducts and *Cryptosporidium.*

The Administration has steadfastly supported improvements to SDWA along the lines of the bill reported by the Subcommittee, and EPA has taken a number of steps to prepare for these improvements. Over the last year we have worked hard with stakeholders to realign our resources to reflect priority drinking water concerns. We believe our extensive outreach effort will bolster future partnerships for implementing SDWA. In addition, our planned reorganization of the drinking water program should improve the Agency's ability to strengthen its scientific work in drinking water while maintaining other priority activities.

EPA's responsibilities in the bill will present implementation challenges. Important new efforts to boost stakeholder involvement and strengthen science will undoubtedly make some time frames difficult and strain current Agency resources. Timely implementation is achievable, however, depending on adequate levels of future funding. We look forward to working together to assure there are resources necessary to allow implementation of the important public health protections in this bill.

I appreciate the opportunity to provide comments on the bill. We may have additional comments as we conduct a more detailed review of individual provisions. I look forward to working with the Committee to secure final passage of SDWA reauthorization that provides balanced regulatory improvements, new funding strong prevention, and public information.

Sincerely,

CAROL M. BROWNER.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT

(Commonly known as the Safe Drinking Water Act)

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

SEC. 1400. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Safe Drinking Water Act".

(b) TABLE OF CONTENTS.—

PART A—DEFINITIONS

DEFINITIONS

SEC. 1401. For purposes of this title:

(1) The term "primary drinking water regulation" means a regulation which—

(A) * * *

* * * * * * *

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems. *At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.*

* * * * * * *

[(4) The**]**

(4) PUBLIC WATER SYSTEM.—

(A) IN GENERAL.—The term "public water system" means a system for the provision to the public of **[**piped water for human consumption**]** *water for human consumption through pipes or other constructed conveyances*, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes **[**(A)**]** *(i)* any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and **[**(B)**]** *(ii)* any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(B) CONNECTIONS.—

(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a con-

structed conveyance other than a pipe shall not be considered a connection, if—

(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking, cooking, and bathing; or

(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.

* * * * * * *

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title for the first 7 fiscal years following the enactment of the Safe Drinking Water Act Amendments of 1996. With the exception of biomedical research, nothing in this Act shall affect or modify any authorization for research and development under this Act or any other provision of law.

PART B—PUBLIC WATER SYSTEMS

* * * * * * *

NATIONAL DRINKING WATER REGULATIONS

SEC. 1412. (a) * * *
(b)(1) * * *
(2)(A) * * *

* * * * * * *

(C) Any contaminant referred to in paragraph (1) for which a substitution is made, pursuant to subparagraph (A) of this paragraph shall be included on the priority list to be published by the Administrator not later than January 1, 1988, pursuant to paragraph [(3)(a)] *(3)(A)*.

(D) The Administrator's decision to regulate a contaminant identified pursuant to this paragraph in lieu of a contaminant referred to in paragraph (1) shall not be subject to judicial review.

[(3)(A) The Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations for each contaminant (other than a contaminant referred to in paragraph (1) or (2) for which a national primary drinking water regulation was promulgated) which, in the judgment of the Administrator, may have any adverse effect on the health of persons and which is known or anticipated to occur in public water systems. Not later than January 1, 1988, and at 3-year intervals thereafter, the Administrator shall publish a list of contaminants which are known or anticipated to occur in public water systems and which may require regulation under this Act.

[(B) For the purpose of establishing the list under subparagraph (A), the Administrator shall form an advisory working group including members from the National Toxicology Program and the Environmental Protection Agency's Offices of Drinking Water, Pesticides, Toxic Substances, Ground Water, Solid Waste and Emergency Response and any others the Administrator deems appropriate. The Administrator's consideration of priorities shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

[(C) Not later than 24 months after the listing of contaminants under subparagraph (A), the Administrator shall publish proposed maximum contaminant level goals and national primary drinking water regulations for not less than 25 contaminants for the list established under subparagraph (A).

[(D) Not later than 36 months after the listing of contaminants under subparagraph (A), the Administrator shall publish a maximum contaminant goal and promulgate a national primary drinking water regulation for those contaminants for which proposed maximum contaminant level goals and proposed national primary drinking water regulations were published under subparagraph (C).]

(3) REGULATION OF UNREGULATED CONTAMINANTS.—

(A) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(i) Not later than 18 months after the date of the enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after

notice and opportunity for public comment, and after considering the occurrence data base established under section 1445(g), shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title.

(ii) The unregulated contaminants considered under clause (i) shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

(iii) The Administrator's decision whether or not to select an unregulated contaminant for a list under this subparagraph shall not be subject to judicial review.

(B) DETERMINATION TO REGULATE.—(i) Not later than 5 years after the date of the enactment of the Safe Drinking Water Act Amendments of 1996, and every 5 years thereafter, the Administrator shall, by rule, for not fewer than 5 contaminants included on the list published under subparagraph (A), make determinations of whether or not to regulate such contaminants.

(ii) A determination to regulate a contaminant shall be based on findings that—

(I) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at a level of public health concern; and

(II) regulation of such contaminant presents a meaningful opportunity for public health risk reduction for persons served by public water systems.

Such findings shall be based on the best available public health information, including the occurrence data base established under section 1445(g).

(iii) The Administrator may make a determination to regulate a contaminant that does not appear on a list under subparagraph (A) if the determination to regulate is made pursuant to clause (ii).

(iv) A determination under this subparagraph not to regulate a contaminant shall be considered final agency action and subject to judicial review.

(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(D) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall promulgate, by rule, maximum contaminant level goals and national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall promulgate a maximum contaminant level goal and national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

(E) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

(F) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

(i) INFORMATION COLLECTION RULE.—Not later than December 31, 1996, the Administrator shall, after notice and opportunity for public comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium. The Administrator may extend the December 31, 1996, deadline under this clause for up to 180 days if the Administrator determines that progress toward approval of an appropriate analytical method to screen for cryptosporidium is sufficiently advanced and approval is likely to be completed within the additional time period.

(ii) ADDITIONAL DEADLINES.—The time intervals between promulgation of a final information collection rule, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule shall be in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the timetable established by this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the timetable.

[(4) Each**]**

(4) GOALS AND STANDARDS.—

(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. **[**Each national**]**

(B) MAXIMUM CONTAMINANT LEVELS.—Except as provided in paragraphs (5) and (6), each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a [maximum level] *maximum contaminant level* for such contaminant which is as close to the maximum contaminant level goal as is feasible.

(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (12)(C).

[(5) For the]

(D) DEFINITION OF FEASIBLE.—For the purposes of this subsection, the term "feasible" means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of [paragraph (4)] *this paragraph*, granular activated carbon is feasible for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon.

[(6) Each national]

(E) FEASIBLE TECHNOLOGIES.—

(i) Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this paragraph shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

(ii) The Administrator shall include in the list any technology, treatment technique, or other means that is affordable for small public water systems serving—

(I) a population of 10,000 or fewer but more than 3,300;

(II) a population of 3,300 or fewer but more than 500; and

(III) a population of 500 or fewer but more than 25; and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment

technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards.

(iii) Except as provided in clause (v), not later than 2 years after the date of the enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of the enactment of this paragraph.

(iv) The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II) and (III) of clause (ii) that are subject to the regulation.

(v) Within one year after the enactment of this clause, the Administrator shall list technologies that meet the surface water treatment rules for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).

(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

(i) increasing the concentration of other contaminants in drinking water; or

(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (12)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

(i) persons served by large public water systems; and

(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e) (relating to small system assistance program);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems (as defined in section 1415(e), relating to small system assistance program).

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation for contaminants that are disinfectants or disinfection byproducts (as described in paragraph (3)(F)), or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.

(7)(A) * * *

* * * * * * *

(C)(i) * * *

* * * * * * *

(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with paragraph (8)).

(8) ⟦Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems.⟧ *At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (3)(F)(ii)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water. A State that has primary enforcement authority shall develop a plan through which ground water disinfection determinations are made. The plan shall be based on the Administrator's criteria and shall be submitted to the Administrator for approval.* The Administrator shall simultaneously promulgate a rule specifying criteria that will be used by the Administrator (or delegated State authorities) to grant variances from this requirement according to the provisions of sections 1415(a)(1)(B) and 1415(a)(3). In implementing section ⟦1442(g)⟧ *1442(e)* the Administrator or the delegated State authority shall, where appropriate, give special consideration to providing technical assistance to small public water systems in complying with the regulations promulgated under this paragraph.

⟦(9) National primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years. Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities

that have occurred over the previous 3-year period and that may provide for greater protection of the health of persons. The findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that the technology, treatment techniques, or other means resulting from such innovations or changes are not feasible within the meaning of paragraph (5), an explanation of such conclusion shall be published in the Federal Register.

[(10) National primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.**]**

(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.

(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.

(11) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(12) RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION.—

(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

(i) each population addressed by any estimate of public health effects;

(ii) the expected risk or central estimate of risk for the specific populations;

(iii) each appropriate upper-bound or lower-bound estimate of risk;

(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of:

(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.

(13) CERTAIN CONTAMINANTS.—

(A) RADON.—Any proposal published by the Administrator before the enactment of the Safe Drinking Water Act Amendments of 1996 to establish a national primary drinking water standard for radon shall be withdrawn by the Administrator. Notwithstanding any provision of any law enacted prior to the enactment of the Safe Drinking Water Act Amendments of 1996, within 3 years of such date of enactment, the Administrator shall propose and promulgate a national primary drinking water regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996. In undertaking any risk analysis and benefit cost analysis in connection with the promulgation of such standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

(B) ARSENIC.—(i) Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

(iv) The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) There are authorized to be appropriated $2,000,000 for each of fiscal years 1997 through 2001 for the studies required by this paragraph.

(C) SULFATE.—

(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

(ii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.

(14) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C) or completing the analysis under paragraph (12)(C) to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (12)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

(15) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of the enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's "enhanced surface water treatment rule" prior to such date.

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STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

[(1) has adopted drinking water regulations which are no less stringent than the national primary drinking water regulations in effect under such sections 1412(a) and 1412(b);**]**

(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

* * * * * * *

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416; **[**and**]**

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances**[**.**]** *including earthquakes, floods, hurricanes, and other natural disasters, as appropriate; and*

(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

* * * * * * *

(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.

ENFORCEMENT OF DRINKING WATER REGULATIONS

SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with **[**any national primary drinking water regulation in effect under section 1412**]** *any applicable requirement*, or

(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and such public water system and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance **[**with such regulation or requirement**]** *with the requirement* by the earliest feasible time.

(B) If, beyond the thirtieth day after the Administrator's notification under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such **[**regulation or**]** *applicable* requirement or the Administrator shall commence a civil action under subsection (b).

[(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

[(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

[(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule or other requirement imposed pursuant thereto, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b).**]**

(2) ENFORCEMENT IN NONPRIMACY STATES.—

(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary

enforcement responsibility for public water systems, that a public water system in the State—

(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.

(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with [a national primary drinking water regulation] *any applicable requirement*, with an order issued under subsection (g), or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

(1) * * *

* * * * * * *

[(c) Each owner or operator of a public water system shall give notice to the persons served by it—

[(1) of any failure on the part of the public water system to—

[(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

[(B) perform monitoring required by section 1445(a), and

[(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

[(A) the existence of such variance or exemption, and

[(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form, manner, and frequency for giving notice under this subsection. Within 15 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall amend such regulations to provide for different types and frequencies of notice based on the differences between violations which are intermittent or infrequent and violations which are continuous or frequent. Such regulations shall also take into account the seriousness of any potential adverse health effects which may be involved. Notice of any violation of a maximum contaminant level or any other violation designated by the Administrator as posing a serious potential adverse health effect shall be given as soon as possible, but in no case later than 14 days after the violation. Notice of a continuous viola-

tion of a regulation other than a maximum contaminant level shall be given no less frequently than every 3 months. Notice of violations judged to be less serious shall be given no less frequently than annually. The Administrator shall specify the types of notice to be used to provide information as promptly and effectively as possible taking into account both the seriousness of any potential adverse health effects and the likelihood of reaching all affected persons. Notification of violations shall include notice by general circulation newspaper serving the area and, whenever appropriate, shall also include a press release to electronic media and individual mailings. Notice under this subsection shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the steps that the system is taking to correct such violation, and the necessity for seeking alternative water supplies, if any, until the violation is corrected. Until such amended regulations are promulgated, the regulations in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1986 shall remain in effect. The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a). Any person who violates this subsection or regulations issued under this subsection shall be subject to a civil penalty of not to exceed $25,000.]

(c) NOTICE TO PERSONS SERVED.—

(1) IN GENERAL.—Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

(A) Notice of any failure on the part of the public water system to—

(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

(ii) perform monitoring required by section 1445(a).

(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 1415 for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, notice of—

(i) the existence of the variance or exemption; and

(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

(i) provide for different frequencies of notice based on the differences between violations that are intermittent

or infrequent and violations that are continuous or frequent; and

(ii) take into account the seriousness of any potential adverse health effects that may be involved.

(B) STATE REQUIREMENTS.—

(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

(II) with respect to the form and content of notice given under subparagraph (D).

(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

(ii) provide a clear and readily understandable explanation of—

(I) the violation;

(II) the potential adverse effects on human health;

(III) the steps that the public water system is taking to correct the violation; and

(IV) the necessity of seeking alternative water supplies until the violation is corrected;

(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

(I) be provided to appropriate broadcast media;

(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

(D) WRITTEN NOTICE.—

(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

(3) REPORTS.—

(A) ANNUAL REPORT BY STATE.—

(i) IN GENERAL.—Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title.

The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

(A) ANNUAL REPORTS TO CONSUMERS.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of the enactment of this paragraph to require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (hereinafter in this paragraph referred to as a "consumer confidence report"). Such regulations shall provide a brief and plainly worded definition of the terms "maximum contaminant level goal" and "maximum contaminant level" and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also provide for an Environmental Protection Agency toll-free hot-line that consumers can call for more information and explanation.

(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

(i) Information on the source of the water purveyed.

(ii) A brief and plainly worded definition of the terms "maximum contaminant level goal" and "maximum contaminant level", as provided in the regulations of the Administrator.

(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).

(iv) Information on compliance with national primary drinking water regulations.

(v) Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

(vi) A statement that more information about contaminants and potential health effects can be obtained

by calling the Environmental Protection Agency hot line.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

(C) COVERAGE.—The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

(i) inform its customers that the system will not be complying with subparagraph (A),

(ii) make information available upon request to the public regarding the quality of the water supplied by such system, and

(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

(D) ALTERNATIVE FORM AND CONTENT.—A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.

* * * * * * *

(g)(1) In any case in which the Administrator is authorized to bring a civil action under this section or under section 1445 with respect to any [regulation, schedule, or other] *applicable* requirement, the Administrator also may issue an order to require compliance with such [regulation, schedule, or other] *applicable* requirement.

(2) An order issued under this subsection shall not take [effect until after notice and opportunity for public hearing and,] *effect,* in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the [proposed] order. A copy of any order [proposed to be] issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(3)(A) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

[(B) Whenever any civil penalty sought by the Administrator under this paragraph does not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity

for a hearing on the record in accordance with section 554 of title 5 of the United States Code.]

(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(C) Whenever any civil penalty sought by the Administrator under this [paragraph exceeds $5,000] *subsection for a violation of an applicable requirement exceeds $25,000*, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

* * * * * * *

(h) RELIEF.—

(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

(A) the physical consolidation of the system with 1 or more other systems;

(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term "applicable requirement" means—

(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.

VARIANCES

SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation. A variance may only be issued to a system after the system's application of the best technology[, treatment techniques,] or other means, which the Administrator finds are available (taking costs into consideration). [The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant.] The Administrator's finding of [best available technology, treatment techniques or other means] *best technology or other means* for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered approprate by an Administrator. Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe at time the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such additional control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

[Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.] A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

* * * * * * *

(C) [Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance.] *Before a variance is issued and a schedule is prescribed pursuant to this subsection or subsection (e) by a State, the State shall provide notice and an opportunity for a public hearing on the proposed variance and schedule.* A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it *under this section*. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State [under subparagraph (A)] *under this section* shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to [that subparagraph] *this section*. The requirements of each schedule prescribed by a State pursuant to [that subparagraph] *this section* shall be enforceable by the State under its laws. [Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.]

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under such subparagraph.

(F) [Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date.] *Not later than 5 years after the enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall complete a review of the variances granted under this section (and the schedules prescribed in connection with such variances).* The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each [3-year] *5-year* period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continu-

ing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under [subparagraph (A) or (B)] *this section* or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) * * *

* * * * * * *

(b) Any schedule or other requirement on which a variance granted under [paragraph (1)(B) or (2) of subsection (a)] *this section* is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) If an application for a variance under [subsection (a)] *this section* is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

[(d) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).]

(e) SMALL SYSTEM ASSISTANCE PROGRAM.—

(1) BAAT VARIANCES.—In the case of public water systems serving 3,300 persons or fewer, a variance under this section shall be granted by a State which has primary enforcement responsibility for public water systems allowing the use of Best Available Affordable Technology in lieu of best technology or other means where—

(A) no best technology or other means is listed under section 1412(b)(4)(E) for the applicable category of public water systems;

(B) the Administrator has identified BAAT for that contaminant pursuant to paragraph (3); and

(C) the State finds that the conditions in paragraph (4) are met.

(2) DEFINITION OF BAAT.—The term "Best Available Affordable Technology" or "BAAT" means the most effective technology or other means for the control of a drinking water contaminant or contaminants that is available and affordable to systems serving fewer than 3,300 persons.

(3) IDENTIFICATION OF BAAT.—(A) As part of each national primary drinking water regulation proposed and promulgated after the enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall identify BAAT in any case where no "best technology or other means" is listed for a category of public water systems listed under section 1412(b)(4)(E). No such identified BAAT shall require a technology from a specific manufacturer or brand. BAAT need not be adequate to achieve the applicable maximum contaminant level or treatment technique, but shall bring the public water system as close to achievement of such maximum contaminant level as practical or as close to the level of health protection provided by such treatment technique as practical, as the case may be. Any technology or other means identified as BAAT must be determined by the Administrator to be protective of public health. Simultaneously with identification of BAAT, the Administrator shall list any assumptions underlying the public health determination referred to in the preceding sentence, where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide the assumptions used in determining affordability, taking into consideration the number of persons served by such systems. Such listing shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors in support of such listing, including the applicability of BAAT to surface and underground waters or both.

(B) To the greatest extent possible, within 36 months after the date of the enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall identify BAAT for all national primary drinking water regulations promulgated prior to such date of enactment where no best technology or other means is listed for a category of public water systems under section 1412(b)(4)(E), and where compliance by such small systems is not practical. In identifying BAAT for such national primary drinking water regulations, the Administrator shall give priority to evaluation of atrazine, asbestos, selenium, pentachlorophenol, antimony, and nickel.

(4) CONDITIONS FOR BAAT VARIANCE.—To grant a variance under this subsection, the State must determine that—

(A) the public water system cannot install "best technology or other means" because of the system's small size;

(B) the public water system could not comply with the maximum contaminant level through use of alternate water supplies or through management changes or restructuring;

(C) the public water system has the capacity to operate and maintain BAAT; and

(D) the circumstances of the public water system are consistent with the public health assumptions identified by the Administrator under paragraph (3).

(5) SCHEDULES.—Any variance granted by a State under this subsection shall establish a schedule for the installation and operation of BAAT within a period not to exceed 2 years after the issuance of the variance, except that the State may grant an

extension of 1 additional year upon application by the system. The application shall include a showing of financial or technical need. Variances under this subsection shall be for a term not to exceed 5 years (including the period allowed for installation and operation of BAAT), but may be renewed for such additional 5-year periods by the State upon a finding that the criteria in paragraph (1) continue to be met.

(6) REVIEW.—Any review by the Administrator under paragraphs (4) and (5) shall be pursuant to subsection (a)(1)(G)(i).

(7) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

EXEMPTIONS

SEC. 1416. (a) * * *

(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, at the time the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule [prescribed by a State pursuant to this subsection] *prescribed by a State pursuant to this subsection or subsection (h)* may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the national primary drinking water regulations promulgated under section 1412(a), not later than 12 months after enactment of the Safe Drinking Water Act Amendments of 1986; and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by national primary drinking water regulations, other than a regulation referred to in section 1412(a), [12 months] *4 years* after the date of issuance of the exemption.

(B) The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed [3 years after the date of the issuance of the exemption] *4 years after the expiration of the initial exemption* if the public water system establishes that—

(i) the system cannot meet the standard without capital improvements which cannot be completed within the period of such exemption;

(ii) in the case of a system which needs financial assistance for the necessary improvement, the system has entered into an agreement to obtain such financial assistance; or

(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and

the system is taking all practicable steps to meet the standard.

[(C) In the case of a system which does not serve more than 500 service connections and which needs financial assistance for the necessary improvements, an exemption granted under clause (i) or (ii) of subparagraph (B) may be renewed for one or more additional 2-year periods if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).]

* * * * * * *

(c) Each State which grants an exemption [under subsection (a)] *under this section* shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) *or the determination under subsection (h)(1)(C)* before the exemption may be granted) and document the need for the exemption.

(d)(1) [Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date.] *Not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the 4-year period beginning on such date.* The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each [3-year] *4-year* period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new sci-

entific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

* * * * * * *

(h) SMALL SYSTEMS.—(1) For public water systems serving fewer than 3,300 persons, the maximum exemption period shall be 4 years if the State is exercising primary enforcement responsibility for public water systems and determines that—

(A) the public water system cannot meet the maximum contaminant level or install Best Available Affordable Technology ("BAAT") due in either case to compelling economic circumstances (taking into consideration the availability of financial assistance under section 1452, relating to State Revolving Funds) or other compelling circumstances;

(B) the public water system could not comply with the maximum contaminant level through the use of alternate water supplies;

(C) the granting of the exemption will provide a drinking water supply that protects public health given the duration of exemption; and

(D) the State has met the requirements of paragraph (2).

(2)(A) Before issuing an exemption under this section or an extension thereof for a small public water system described in paragraph (1), the State shall—

(i) examine the public water system's technical, financial, and managerial capability (taking into consideration any available financial assistance) to operate in and maintain compliance with this title, and

(ii) determine if management or restructuring changes (or both) can reasonably be made that will result in compliance with this title or, if compliance cannot be achieved, improve the quality of the drinking water.

(B) Management changes referred to in subparagraph (A) may include rate increases, accounting changes, the hiring of consultants, the appointment of a technician with expertise in operating such systems, contractual arrangements for a more efficient and capable system for joint operation, or other reasonable strategies to improve capacity.

(C) Restructuring changes referred to in subparagraph (A) may include ownership change, physical consolidation with another system, or other measures to otherwise improve customer base and gain economies of scale.

(D) If the State determines that management or restructuring changes referred to in subparagraph (A) can reasonably be made, it shall require such changes and a schedule therefore as a condition of the exemption. If the State determines to the contrary, the State may still grant the exemption. The decision of the State under this subparagraph shall not be subject to review by the Administrator, except as provided in subsection (d).

(3) Paragraphs (1) and (3) of subsection (a) shall not apply to an exemption issued under this subsection. Subparagraph (B) of sub-

section (b)(2) shall not apply to an exemption issued under this subsection, but any exemption granted to such a system may be renewed for additional 4-year periods upon application of the public water system and after a determination that the criteria of paragraphs (1) and (2) of this subsection continue to be met.

(4) No exemption may be issued under this section for microbiological contaminants.

(5)(A) Notwithstanding this subsection, the State of New York, on a case-by-case basis and after notice and an opportunity of at least 60 days for public comment, may allow an additional period for compliance with the Surface Water Treatment Rule established pursuant to section 1412(b)(7)(C) in the case of unfiltered systems in Essex, Columbia, Greene, Dutchess, Rennsselaer, Schoharie, Saratoga, Washington, and Warren Counties serving a population of less than 5,000, which meet appropriate disinfection requirements and have adequate watershed protections, so long as the State determines that the public health will be protected during the duration of the additional compliance period and the system agrees to implement appropriate control measures as determined by the State.

(B) The additional compliance period referred to in subparagraph (A) shall expire on the earlier of the date 3 years after the date on which the Administrator identifies appropriate control technology for the Surface Water Treatment Rule for public water systems in the category that includes such system pursuant to section 1412(b)(4)(E) or 5 years after the enactment of the Safe Drinking Water Act Amendments of 1996.

SEC. 1417. PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX.

(a) IN GENERAL.—

[(1) PROHIBITION.—Any pipe, solder, or flux, which is used after the enactment of the Safe Drinking Water Act Amendments of 1986, in the installation or repair of—

[(A) any public water system, or

[(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

shall be lead free (within the meaning of subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.]

(1) PROHIBITIONS.—

(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

(i) any public water system; or

(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.

(2) PUBLIC NOTICE REQUIREMENTS.—

(A) IN GENERAL.—Each *owner or operator of a* public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

(i) * * *

* * * * * * *

(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

* * * * * * *

(d) DEFINITION OF LEAD FREE.—For purposes of this section, the term "lead free"—

(1) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent **[**lead, and**]** *lead;*

(2) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead**[**.**]***; and*

(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e).

(e) PLUMBING FITTINGS AND FIXTURES.—

(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

(2) STANDARDS.—

(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer

to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.

SEC. 1418. MONITORING OF CONTAMINANTS.

(a) INTERIM MONITORING RELIEF AUTHORITY.—(1) A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system, and

(B) the State, (considering the hydrogeology of the area and other relevant factors), determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

(2) The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after the enactment of the Safe Drinking Water Act Amendments of 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

(b) PERMANENT MONITORING RELIEF AUTHORITY.—(1) Each State exercising primary enforcement responsibility for public water systems under this title and having an approved wellhead protection program and a source water assessment program may adopt, in accordance with guidance published by the Administrator, and submit to the Administrator as provided in section 1428(c), tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection by-products, or corrosion by-products. The preceding sentence is not intended to limit other authority of

the Administrator under other provisions of this title to grant monitoring flexibility.

(2)(A) The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 1428(l), guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) of this subsection for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

(B) For purposes of subparagraph (A), the phrase "reliably and consistently below the maximum contaminant level" means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

(3) The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem, or

(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

(c) TREATMENT AS NPDWR.—All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) shall be treated as part of the national primary drinking water regulation for that contaminant.

(d) OTHER MONITORING RELIEF.—Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.

SEC. 1419. CAPACITY DEVELOPMENT.

(a) STATE AUTHORITY FOR NEW SYSTEMS.—Each State shall obtain the legal authority or other means to ensure that all new com-

munity water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

(c) CAPACITY DEVELOPMENT STRATEGY.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section, each State shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

(C) a description of how the State will use the authorities and resources of this title or other means to—

(i) assist public water systems in complying with national primary drinking water regulations;

(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(iii) assist public water systems in the training and certification of operators;

(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments,

private and nonprofit public water systems, and public water system customers).

(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452(a)(1)(H)(i).

(d) FEDERAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

(2) INFORMATIONAL ASSISTANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

REGULATIONS FOR STATE PROGRAMS

SEC. 1421. (a) * * *
(b)(1) * * *

* * * * * * *

(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial [number or] *number of* States.

* * * * * * *

SEC. 1427. SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.

(a) PURPOSE.—The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers under section 1424(e) of this Act.

(b) DEFINITION.—For purposes of this section, the term "critical aquifer protection area" means either of the following:

(1) All or part of an area located within an area for which an application or designation as a sole or principal source aquifer pursuant to section 1424(e), has been submitted and approved by the Administrator [not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986] and which satisfies the criteria established by the Administrator under subsection (d).

* * * * * * *

(k) ACTIVITIES FUNDED UNDER OTHER LAW.—No funds authorized under this [subsection] *section* may be used to fund activities funded under other sections of this Act or the Clean Water Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other environmental laws.

(l) SAVINGS PROVISION.—Nothing under this section shall be construed to amend, supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws, or any requirement imposed or right provided under any Federal or State environmental or public health statute.

(m) AUTHORIZATION.—There are authorized to be appropriated to carry out this section not more than the following amounts:

Fiscal year:	*Amount*
1987	$10,000,000
1988	15,000,000
1989	17,500,000
1990	17,500,000
1991	17,500,000
1992–2003	*15,000,000.*

Matching grants under this section may also be used to implement or update any water quality management plan for a sole or principal source aquifer approved (before the date of the enactment of this section) by the Administrator under section 208 of the Federal Water Pollution Control Act.

SEC. 1428. STATE PROGRAMS TO ESTABLISH WELLHEAD *AND SOURCE WATER* PROTECTION AREAS.

(a) * * *

(b) PUBLIC PARTICIPATION.—To the maximum extent possible, each State shall establish procedures, including but not limited to the establishment of technical and citizens' advisory committees, to encourage the public to participate in developing the protection program for wellhead areas *and source water assessment programs under subsection (l)*. Such procedures shall include notice and opportunity for public hearing on the State program before it is submitted to the Administrator.

(c) DISAPPROVAL.—

(1) IN GENERAL.—**[**If, in the judgment of the Administrator a State program (or portion, thereof, including the definition of a wellhead protection area), is not adequate to protect public water systems as required by this section, the Administrator shall disapprove such program (or portion thereof).**]** *If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under subsection (l) or section 1418(b) does not meet the applicable requirements of subsection (l) or section 1418(b), the Administrator shall disapprove such program or portion thereof.* A State program developed pursuant to subsection (a) shall be deemed to be adequate unless the Administrator determines, within 9 months of the receipt of a State program, that such program (or portion thereof) is inadequate for the purpose of protecting public water systems as required by this section from contaminants that may have any adverse effect on the health of persons. *A State program developed pursuant to subsection (l) or section 1418(b) shall be deemed to meet the applicable requirements of subsection (l) or section 1418(b) unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.* If the Administrator determines that a proposed State program (or any portion thereof) is **[**inadequate**]** *disapproved*, the Administrator shall submit a written statement of the reasons for such determination to the Governor of the State.

(2) MODIFICATION AND RESUBMISSION.—Within 6 months after receipt of the Administrator's written notice under paragraph (1) that any proposed State program (or portion thereof) is **[**inadequate**]** *disapproved*, the Governor or Governor's designee, shall modify the program based upon the recommendations of the Administrator and resubmit the modified program to the Administrator.

* * * * * * *

(g) IMPLEMENTATION.—Each State shall make every reasonable effort to implement the State wellhead area protection program under this section *and the State source water assessment programs under subsection (l) for which the State uses grants under section 1452 (relating to State Revolving Funds)* within 2 years of submitting the program to the Administrator. Each State shall submit to the Administrator a biennial status report describing the State's

progress in implementing the program. [Such] *In the case of wellhead protection programs, such* report shall include amendments to the State program for water wells sited during the biennial period.

* * * * * * *

(k) AUTHORIZATION OF APPROPRIATIONS.—Unless the State program is disapproved under this section, the Administrator shall make grants to the State for not less than 50 or more than 90 percent of the costs incurred by a State (as determined by the Administrator) in developing and implementing each State program under this section. For purposes of making such grants there is authorized to be appropriated not more than the following amounts:

	Amount
Fiscal year:	
1987	$20,000,000
1988	20,000,000
1989	35,000,000
1990	35,000,000
1991	35,000,000
1992–2003	*30,000,000.*

(l) SOURCE WATER ASSESSMENT.—

(1) GUIDANCE.—Within 12 months after enactment of the Safe Drinking Water Act Amendments of 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries.

(2) PROGRAM REQUIREMENTS.—A source water assessment program under this subsection shall—

(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

(B) identify for contaminants regulated under this title for which monitoring is required under this title (or any unregulated contaminants selected by the State in its discretion which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

(3) APPROVAL, IMPLEMENTATION, AND MONITORING RELIEF.—A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in subsection (c). States shall begin implementation of

the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 1418(a) shall be eligible for monitoring relief, consistent with section 1418(b), upon completion of the assessment in the delineated source water assessment area or areas concerned.

(4) TIMETABLE.—The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 1452 (relating to State Revolving Funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months. Compliance with subsection (g) shall not affect any State permanent monitoring flexibility program approved under section 1418(b).

(5) DEMONSTRATION PROJECT.—The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

(6) USE OF OTHER PROGRAMS.—To avoid duplication and to encourage efficiency, the program under this section shall, to the extent practicable, be coordinated with other existing programs and mechanisms, and may make use of any of the following:

(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)).

(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

(7) PUBLIC AVAILABILITY.—The State shall make the results of the source water assessments conducted under this subsection available to the public.

SEC. 1429. FEDERAL FACILITIES.

(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) owning or operating any facility in a wellhead protection area,

(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area, or

(3) owning or operating any public water system,

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas and respecting such public water systems in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this title, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1

year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(b) ADMINISTRATIVE PENALTY ORDERS.—

(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

(4) PUBLIC REVIEW.—

(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.

(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1996 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the envi-

ronment or to defray the costs of environmental protection or enforcement.

PART D—EMERGENCY POWERS

EMERGENCY POWERS

SEC. 1431. (a) * * *

(b) Any person who violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be subject to a civil penalty of not to exceed [$5,000] *$15,000* for each day in which such violation occurs or failure to comply continues.

* * * * * * *

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) * * *

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(f) No certification of need or order issued under this section may remain in effect for more than one year.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a) * * *

* * * * * * *

[(e) The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include "circuit-rider" programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection $10,000,000 for each of the fiscal years 1987 through 1991. Not less than the greater of—

[(1) 3 percent of the amounts appropriated under this subsection, or

[(2) $280,000

shall be utilized for technical assistance to public water systems owned or operated by Indian tribes.]

(e) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. Such assistance may include circuit-rider programs, training, and preliminary engineering evaluations. There is authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for fiscal years 1997 through 2003. No portion of any State revolving fund established under section 1452 (relating to State revolving funds) and no portion of any funds made available under this subsection may be used either directly or indirectly for lobbying expenses. Of the

total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian tribes.

(f) MINIMUM STANDARDS.—(1) Not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and after consultation with States exercising primary enforcement responsibility for public water systems, the Administrator shall promulgate regulations specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such regulations shall take into account existing State programs, the complexity of the system and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

(2) Any State exercising primary enforcement responsibility for public water systems shall adopt and implement, within 2 years after the promulgation of regulations pursuant to paragraph (1), requirements for the certification of operators of community and nontransient noncommunity public water systems.

(3) For any State exercising primary enforcement responsibility for public water systems which has an operator certification program in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1996, the regulations under paragraph (1) shall allow the State to enforce such program in lieu of the regulations under paragraph (1) if the State submits the program to the Administrator within 18 months after the promulgation of such regulations unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such regulations. In making this determination, such existing State programs shall be presumed to be substantially equivalent to the regulations, notwithstanding program differences, based on the size of systems or the quality of source water, providing State programs meet overall public health objectives of the regulations. If disapproved the program may be resubmitted within 6 months after receipt of notice of disapproval.

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a)(1) * * *

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[(7) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, $45,000,000 for fiscal year 1979, $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982. For the purposes of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

[Fiscal year:	*Amount*
1987	$37,200,000
1988	37,200,000
1989	40,150,000

	Amount
1990	40,150,000
1991	40,150,000]

(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $100,000,000 for each of fiscal years 1997 through 2003.

(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

(9) STATE LOAN FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 1452 (relating to State revolving funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Amendments of 1996.

(b)(1) * * *

* * * * * * *

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977, $10,000,000 for each of the fiscal years 1978 and 1979, $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982. For the purpose of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

	Amount
Fiscal year:	
1987	$19,700,000
1988	19,700,000
1989	20,850,000
1990	20,850,000
1991	20,850,000
1992–2003	*15,000,000.*

* * * * * * *

(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

(1) IN GENERAL.—The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects nec-

essary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

(2) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

(3) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 1997 through 2003 $15,000,000 for each of such fiscal years for the purpose of providing assistance to the State of New York to carry out paragraph (1).

* * * * * * *

RECORDS AND INSPECTIONS

SEC. 1445. (a)[(1) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.] *(1)(A) Every person who is subject to any requirement of this title or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.*

(B) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this title.

(C) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

(D) The Administrator shall not later than 2 years after the date of enactment of this sentence, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.

[(2) Not later than 18 months after enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall promulgate regulations requiring every public water system to conduct a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by the system and shall vary the frequency and schedule of monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found. Each system shall be required to monitor at least once every 5 years after the effective date of the Administrator's regulations unless the Administrator requires more frequent monitoring.

[(3) Regulations under paragraph (2) shall list unregulated contaminants for which systems may be required to monitor, and shall include criteria by which the primary enforcement authority in each State could show cause for addition or deletion of contaminants from the designated list. The primary State enforcement authority may delete contaminants for an individual system, in accordance with these criteria, after obtaining approval of assessment of the contaminants potentially to be found in the system. The Administrator shall approve or disapprove such an assessment submitted by a State within 60 days. A State may add contaminants, in accordance with these criteria, without making an assessment, but in no event shall such additions increase Federal expenditures authorized by this section.

[(4) Public water systems conducting monitoring of unregulated contaminants pursuant to this section shall provide the results of such monitoring to the primary enforcement authority.

[(5) Notification of the availability of the results of the monitoring programs required under paragraph (2), and notification of the availability of the results of the monitoring program referred to in

paragraph (6), shall be given to the persons served by the system and the Administrator.

[(6) The Administrator may waive the monitoring requirement under paragraph (2) for a system which has conducted a monitoring program after January 1, 1983, if the Administrator determines the program to have been consistent with the regulations promulgated under this section.

[(7) Any system supplying less than 150 service connections shall be treated as complying with this subsection if such system provides water samples or the opportunity for sampling according to rules established by the Administrator.

[(8) There are authorized to be appropriated $30,000,000 in the fiscal year ending September 30, 1987 to remain available until expended to carry out the provisions of this subsection.]

(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1996 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 40 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g).

(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds appropriated under subparagraph (H), the Adminis-

trator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system and the Administrator.

(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 1997 through 2003.

* * * * * * *

(g) NATIONAL DRINKING WATER OCCURRENCE DATA BASE.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

(2) PUBLIC INPUT.—In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(3) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation

submitted under this clause shall be accompanied by reasonable documentation that—

(A) the contaminant occurs or is likely to occur in drinking water; and

(B) the contaminant poses a risk to public health.

(5) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

(6) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

(7) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

(A) monitoring information collected by public water systems that serve a population of more than 3,300, as required by the Administrator under subsection (a);

(B) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 3,300 or fewer; and

(C) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.

(h) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of sections 1412(b)(4)(E) and 1415(e) (relating to small system assistance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 1412(b)(4)(E) and 1415(e).

(i) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.

* * * * * * *

FEDERAL AGENCIES

SEC. 1447. (a) Each Federal agency **[**(1) having jurisdiction over any federally owned or maintained public water system or (2)**]** engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions **[**respecting the provision of safe drinking water and**]** respecting any underground injection program in the same manner, and to the same extent, as any nongovern-

mental entity. The preceding sentence shall apply [(A)] *(1)* to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), [(B)] *(2)* to the exercise of any Federal, State, or local administrative authority, and [(C)] *(3)* to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.

(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

(c)(1) Nothing in [the Safe Drinking Water Amendments of 1977] *this title* shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

(2) For the purposes of [this Act] *this title*, the term "Federal agency" shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.

JUDICIAL REVIEW

SEC. 1448. (a) A petition for review of—

(1) * * *

(2) any other *final* action of the Administrator under this Act may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation [or issuance of the order] *or any other final Agency action* with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement. *In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simul-*

taneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

* * * * * * *

CITIZEN'S CIVIL ACTION

SEC. 1449. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this title**[**, or**]***;*

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator**[**.**]***; or*

(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 1429(b), to pay the penalty.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this title which occurred within the 27-month period beginning on the first day of the month in which this title is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this title or to order the Administrator to perform an act, or duty described in paragraph (2), as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this title—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States*, or a State* to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator**[**.**]***; or*

(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) to require a State to prescribe a schedule under section 1415 or 1416 for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

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GENERAL PROVISIONS

SEC. 1450. (a) * * *

* * * * * * *

(i)(1) * * *

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within [30] *180* days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint *and the Environmental Protection Agency*.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. *Upon conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in clause (ii), but may not order compensatory damages pending a final order.* The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, *and* (III) [compensatory damages, and (IV) where appropriate, exemplary damages] *and the Secretary may order such person to provide compensatory damages to the complainant*. If such an order is issued, the Secretary, at the

request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1), and shall not conduct the investigation required under paragraph (2), unless the complainant has made a prima facie showing that any behavior described in subparagraphs (A) through (C) of paragraph (1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complaint has made the showing required by paragraph (1)(A), no investigation required under paragraph (2) shall be conducted if the employer demonstrates, by clear and convincing evidence, that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of paragraph (1) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (C) of paragraph (1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(D) Relief may not be ordered under paragraph (2) if the employer demonstrates clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

[(3)**]** *(4)*(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

[(4)**]** *(5)* Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

[(5)**]** *(6)* Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

[(6)**]** *(7)* Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title.

(8) This subsection may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to reduce the employee's discharge or other discriminatory action taken by the employer against the employee. The provisions of this subsection shall be prominently posted in any place of employment to which this subsection applies.

SEC. 1452. STATE REVOLVING FUNDS.

(a) GENERAL AUTHORITY.—

(1) GRANTS TO STATES TO ESTABLISH REVOLVING FUNDS.—(A) The Administrator shall enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection solely to further the health protection objectives of this title, promote the efficient use of fund resources, and for such other purposes as are specified in this title.

(B) To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund and comply with the other requirements of this section.

(C) Such a grant to a State shall be deposited in the drinking water treatment revolving fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State revolving fund.

(D) Such a grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided in Public Law 103–327, Public Law 103–124, and Public Law 104–134 shall be available for obligation during each of the fiscal years 1997 and 1998.

(E) Except as otherwise provided in this section, funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to this section in accordance with—

(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 1452(h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

(F) Such grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (E).

(G) The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator as follows: 20 percent of such allotment shall be available to the Administrator as needed to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallotted to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(H)(i) Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State if the State has not met the requirements of section 1419 (relating to capacity development).

(ii) The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section if the State has not met the requirements of subsection (f) of section 1442 (relating to operator certification).

(iii) All funds withheld by the Administrator pursuant to clause (i) shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (E). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1419 (relating to capacity development).

(iv) All funds withheld by the Administrator pursuant to clause (ii) shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (E). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of subsection (f) of section 1442 (relating to operator certification).

(2) USE OF FUNDS.—Except as otherwise authorized by this title, amounts deposited in such revolving funds, including loan repayments and interest earned on such amounts, shall be used only for providing loans, loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State revolving fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Such financial assistance may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to such system under section 1412 or otherwise significantly further the health protection objectives of

this title. Such funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). Such funds shall not be used for the acquisition of real property or interests therein, unless such acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any revolving fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this part if—

(i) the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that such measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term; and

(ii) the use of the assistance will ensure compliance.

(b) INTENDED USE PLANS.—

(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

(2) CONTENTS.—An intended use plan shall include—

(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

(B) the criteria and methods established for the distribution of funds; and

(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

(3) USE OF FUNDS.—

(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

(i) address the most serious risk to human health;

(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

(iii) assist systems most in need on a per household basis according to State affordability criteria.

(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this part, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

(c) FUND MANAGEMENT.—Each State revolving fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in each such fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

(d) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

(1) LOAN SUBSIDY.—Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

(3) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term "disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

(e) STATE CONTRIBUTION.—Each agreement under subsection (a) shall require that the State deposit in the State revolving fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if such State deposits the State contribution amount into the State fund prior to September 30, 1998.

(f) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a revolving fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law

under which such revolving fund was established and if the Administrator determines that—

(1) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in this section; and

(2) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to such assistance remains with the State agency having primary responsibility for administration of the State program under section 1413.

(g) ADMINISTRATION.—(1) Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish such a fund which are incurred after the date of enactment of this section, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State with primary enforcement responsibility for public water systems within that State may use up to an additional 10 percent of the funds allotted to the State under this section—

(A) for public water system supervision programs which receive grants under section 1443(a);

(B) to administer or provide technical assistance through source water protection programs;

(C) to develop and implement a capacity development strategy under section 1419(c); and

(D) for an operator certification program for purposes of meeting the requirements of section 1442(f),

if the State matches such expenditures with at least an equal amount of State funds. At least half of such match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 1 percent of the funds annually allotted to the State under this section shall be used by each State to provide technical assistance to public water systems in such State. Funds utilized under section 1452(g)(1)(B) shall not be used for enforcement actions or for purposes which do not facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this title.

(2) The Administrator shall publish such guidance and promulgate such regulations as may be necessary to carry out the provisions of this section, including—

(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws,

(B) guidance to prevent waste, fraud, and abuse, and

(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

Such guidance and regulations shall also insure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(3) Each State administering a revolving fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this subsection, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all revolving funds established by, and all other amounts allotted to, the States pursuant to this subsection in accordance with procedures established by the Comptroller General.

(h) NEEDS SURVEY.—The Administrator shall conduct an assessment of water system capital improvements needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of such assessment within 180 days after the date of the enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter.

(i) INDIAN TRIBES.—1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaskan Native Villages which are not otherwise eligible to receive either grants from the Administrator under this section or assistance from State revolving funds established under this section. Such grants may only be used for expenditures by such tribes and villages for public water system expenditures referred to in subsection (a)(2).

(j) OTHER AREAS.—Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 1443(a)(4) for the District of Columbia, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Republic of Palau. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). Such grants shall not be deposited in revolving funds. The total allotment of grants under this section for all areas described in this paragraph in any fiscal year shall not exceed 1 percent of the aggregate amount made available to carry out this section in that fiscal year.

(k) SET-ASIDES.—

(1) IN GENERAL.—Notwithstanding subsection (a)(2), a State may take each of the following actions:

(A) Provide assistance, only in the form of a loan to one or both of the following:

(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1428(l), in order to facilitate compliance with national primary drinking water regulations applicable to such system under section 1412 or otherwise significantly further the health protection objectives of this title.

Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1419(c).

(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1428(l), except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to paragraph (1)(A)(ii).

(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

(3) STATUTORY CONSTRUCTION.—Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

(l) SAVINGS.—The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003. Sums shall remain available until expended.

(n) HEALTH EFFECTS STUDIES.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium, disinfection byproducts, and ar-

senic, and the implementation of a plan for studies of subpopulations at greater risk of adverse effects.

(o) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA.—Notwithstanding the other provisions of this subsection limiting the use of funds deposited in a State revolving fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of the enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State revolving fund may be loaned to a regional endowment fund for the purpose set forth in this paragraph under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

(p) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003 to carry out the provisions of section 1442(e), relating to technical assistance for small systems.

SEC. 1453. WATER CONSERVATION PLAN.

(a) GUIDELINES.—Not later than 2 years after the date of the enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate.

(b) SRF LOANS OR GRANTS.—Within 1 year after publication of the guidelines under subsection (a), a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State revolving fund under section 1452, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.

PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER

* * * * * * *

SEC. 1465. FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER.

(a) * * *

(b) LIMITS.—Each grant under this section shall be used [as] by the State for testing water coolers in accordance with section 1464, for testing for lead contamination in other drinking water supplies under section 1464, or for remedial action under State programs

under section 1464. Not more than 5 percent of the grant may be used for program administration.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $30,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.

SEC. 1466. ESTROGENIC SUBSTANCES SCREENING PROGRAM.

(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of this section, the Administrator shall develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

(b) IMPLEMENTATION.—Not later than 3 years after the date of enactment of this section, after obtaining public comment and review of the screening program described in subsection (a) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125) or the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

(c) SUBSTANCES.—In carrying out the screening program described in subsection (a), the Administrator—

(1) shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)) that may be found in sources of drinking water, and

(2) may provide for the testing of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.

(d) EXEMPTION.—Notwithstanding subsection (c), the Administrator may, by order, exempt from the requirements of this section a biologic substance or other substance if the Administrator determines that the substance is anticipated not to produce any effect in humans similar to an effect produced by a naturally occurring estrogen.

(e) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Administrator shall issue an order to a person that registers, manufactures, or imports a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in subsection (a), and submit information obtained from the testing to the Administrator, within a reasonable time period that the Administrator determines is sufficient for the generation of the information.

(2) PROCEDURES.—To the extent practicable the Administrator shall minimize duplicative testing of the same substance for the same endocrine effect, develop, as appropriate, procedures for fair and equitable sharing of test costs, and develop, as necessary, procedures for handling of confidential business information.

(3) FAILURE OF REGISTRANTS TO SUBMIT INFORMATION.—

(A) SUSPENSION.—If a person required to register a substance referred to in subsection (c)(1) fails to comply with an order under paragraph (1) of this subsection, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this paragraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in paragraph (1) has complied fully with this subsection.

(B) HEARING.—If a person requests a hearing under subparagraph (A), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to comply with an order under paragraph (1) of this subsection. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

(C) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this paragraph issued with respect to a person if the Administrator determines that the person has complied fully with this subsection.

(4) NONCOMPLIANCE BY OTHER PERSONS.—Any person (other than a person referred to in paragraph (3)) who fails to comply with an order under paragraph (1) shall be liable for the same penalties and sanctions as are provided under section 16 of the Toxic Substances Control Act (15 U.S.C. 2601 and following) in the case of a violation referred to in that section. Such penalties and sanctions shall be assessed and imposed in the same manner as provided in such section 16.

(f) AGENCY ACTION.—In the case of any substance that is found, as a result of testing and evaluation under this section, to have an endocrine effect on humans, the Administrator shall, as appropriate, take action under such statutory authority as is available to the Administrator, including consideration under other sections of this Act, as is necessary to ensure the protection of public health.

(g) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this section, the Administrator shall prepare and submit to Congress a report containing—

(1) the findings of the Administrator resulting from the screening program described in subsection (a);

(2) recommendations for further testing needed to evaluate the impact on human health of the substances tested under the screening program; and

(3) recommendations for any further actions (including any action described in subsection (f)) that the Administrator determines are appropriate based on the findings.

(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to amend or modify the provisions of the Toxic Substances Control Act or the Federal Insecticide, Fungicide, and Rodenticide Act.

SECTION 410 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

BOTTLED DRINKING WATER STANDARDS

SEC. 410. [Whenever] *(a) Except as provided in subsection (b), whenever* the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.

(b)(1) Not later than 180 days before the effective date of a national primary drinking water regulation promulgated by the Administrator of the Environmental Protection Agency for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary shall promulgate a standard of quality regulation under this subsection for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water. The effective date for any such standard of quality regulation shall be the same as the effective date for such national primary drinking water regulation, except for any standard of quality of regulation promulgated by the Secretary before the date of enactment of the Safe Drinking Water Act Amendments of 1996 for which (as of such date of enactment) an effective date had not been established. In the case of a standard of quality regulation to which such exception applies, the Secretary shall promulgate monitoring requirements for the contaminants covered by the regulation not later than 2 years after such date of enactment. Such monitoring requirements shall become effective not later than 180 days after the date on which the monitoring requirements are promulgated.

(2) A regulation issued by the Secretary as provided in this subsection shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

(3) A regulation issued by the Secretary as provided in this subsection shall require the following:

(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act, the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water which is no less stringent than the maximum contaminant level provided in the national primary drinking water regulation.

(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act, the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems

using the treatment technique required by the national primary drinking water regulation.

(4)(A) If the Secretary does not promulgate a regulation under this subsection within the period described in paragraph (1), the national primary drinking water regulation referred to in paragraph (1) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the regulation applicable under this subsection to bottled water.

(B) In the case of a national primary drinking water regulation that pursuant to subparagraph (A) is considered to be a standard of quality regulation, the Secretary shall, not later than the applicable date referred to in such subparagraph, publish in the Federal Register a notice—

(i) specifying the contents of such regulation, including monitoring requirements, and

(ii) providing that for purposes of this paragraph the effective date for such regulation is the same as the effective date for the regulation for purposes of title XIV of the Public Health Service Act (or, if the exception under paragraph (1) applies to the regulation, that the effective date for the regulation is not later than 2 years and 180 days after the date of the enactment of the Safe Drinking Water Act Amendments of 1996).

SECTION 1 OF THE SAFE DRINKING WATER ACT

(P.L. 93–523)

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Driking Water Act *of 1974*".

ADDITIONAL VIEWS OF REPRESENTATIVE GREG GANSKE

The Safe Drinking Water Act Reauthorization bill, H.R. 3604, represents a strong bipartisan compromise. I believe it is time to restore common sense to environmental laws and this bill does that. I also believe we need to work from certain underlying principles: first, businesses and farmers need rules that are environmentally sound, fair, clear, and predictable; second, we must respect science; and third, when in doubt, err on the side of "safe." This legislation does that.

This bill represents the commitment of this Congress to move forward with legislation that not only protects the environment and human health, but does so in way that makes government work smarter and better.

Despite my support for this legislation, two issues remain which concern me, source water protection and the "Consumer Confidence Report."

Over the past 20 years, the Safe Drinking Water Act has governed the quality of drinking water "out of the tap" primarily through standard setting, monitoring, treatment, and enforcement of water quality in order to protect the public health. Source water protection offers a means for water systems to address problems of contamination other than "after the fact" responses. By addressing sources of potential drinking water contamination before it can occur, costs and risks to the population are reduced.

The Senate's version of the Safe Drinking Water Reauthorization Act, S. 1316, includes a new component which addresses this important issue. The bill includes language creating an extensive source water protection program which attempts to ensure that a new pool of federal dollars would go to address legitimate source water problems. The measure contains an extensive and thorough petition process developed in conjunction with the agriculture community. Unfortunately, in an effort to reach a bipartisan compromise, the Senate language, which clearly spells out the expectations and responsibilities of individuals to protect source water, was deleted from the House Commerce Committee version, H.R. 3604.

As a result, I met with a variety of agricultural groups in an effort to see if there weren't some area for mutual compromise. In a spirit of cooperation, the agricultural community made several concessions in order to move this legislation forward. Instead of the Senate's approach, the House bill contains a voluntary incentive based program.

As the principle author of the source water measure contained within the bill, I want to clarify the intent and purpose of the language in Sec. 1452(k)(1)(A). Up to 10% of a state's SRF may be used by water systems to enter into voluntary incentive-based source water protection programs with willing upstream neighbors,

regardless of their occupation. The program is intended to build new partnerships in protecting source water and as such is not intended to be a compulsory weapon against upstream parties. I believe that this proactive incentive based approach which builds upon shared mutual interests will do far more to protect source water than the traditional "Big Stick" approach which emphasizes and punitive actions—after the fact.

Furthermore, the language in Sec. 1452(k)(1)(A)(ii) is silent on the details of source water agreements because it is the intention of authors to give complete and total freedom to water systems and upstream entities in developing source water protection agreements. The only overriding factor of concern is that the agreements be voluntary in nature and contain financial incentives (not penalties) for the parties involved. This is the only approach which will build cooperation between water systems and upstream entities.

The second issue of concern revolves around the "Consumer Confidence Reports" provision Subtitle C, Sec. 131(4)(A and B) contained in the bill. A number of systems in Iowa, including the Des Moines Water Works, Cedar Rapids Water Department, Marshalltown Water Works, the Central Iowa Water Association, and the Iowa Rural Water Association have expressed concern with the scope of the provision. They strongly question the requirements to both publish a report and mail the same data to each water system customer. In addition, they are concerned with the requirements to report both the Maximum Contaminant Level (MCL) and Maximum Contaminant Level Goal (MCLG) for regulated contaminants as well as information on monitored but unregulated contaminants. The systems have voiced the belief that such information will be difficult to understand, confusing and potentially counter-productive. This is especially true in the numerous cases where the MCLG is zero and the MCL represents a higher threshold.

I am pleased that the "Consumer Confidence Reports" provision was amended in the full Committee to eliminate the so called "dual reporting" requirement which called for an annual report to be published in the local paper and to be mailed to each customer. I believe the flexibility contained in the Manager's amendment will help to ensure the public is informed while lowering the costs of reporting. However, I remain concerned that the report required under Sec. 131(4)(B) if not carefully and thoughtfully developed and written could be misconstrued by the public at large. It is crucial that the report accurately convey the differences between the MCL and MCLG and reflect the real risks faced by water system consumers. As such it is important that clear plainly worded risk communication language be developed by the Administrator of the EPA with the maximum input of health professionals. It is vital that we do not repeat the same mistakes the Congress made in communicating the risks of Alar.

GREG GANSKE.

ADDITIONAL VIEWS OF REPRESENTATIVE TOM A. COBURN

H.R. 3604, the Safe Drinking Water Amendments of 1996 is a significant improvement over current law. The revisions this committee has made will provide much needed regulatory relief and to small systems and will also establish a State Revolving Fund to help these systems comply with the laws made in Washington. Above all, I am pleased to note the addition of using sound, peer-reviewed science to the rule making process. These changes are a solid first step towards basing legislative decisions on common sense and proven evidence instead of emotion, incomplete information, or partisan rhetoric.

However, it is vital that the committee recognize that the decisions we make today will impact public health for years to come. While I commend the improvements I mentioned above, I strongly feel the bill fails to adequately address a vital concern to public health. Furthermore, while the legislation will help solve some problems, I believe it will create new ones as well.

Specifically, I am concerned about the section of the bill regarding the proposed disinfectant/disinfectant-by products (D/DBP) rule. During the Subcommittee on Health and Environment's markup, I offered an amendment to clarify the language relative to cost benefit analysis in Stage II of the D/DBP rule. This amendment would have frozen the current levels for disinfection by-products at 80/parts per billion until sound scientific evidence proved that a lower D/DBP level would significantly improve public health. If the Administrator chose to lower the DBP levels without such proof, the change in regulation would have been subject to the same cost benefit analysis that applies to the rest of the 1996 amendments. Finally, if a State can offer evidence that a lower DBP level is beneficial to public health, it may choose to set more stringent standards, as is current practice today.

As you know, S. 1316 and H.R. 3604 both expressly exempt the DBP rule from the cost-benefit analysis that EPA Administrator has discretionary authority to apply to all other new drinking water rules. At the same time, we know that fully implementing this rule will be extremely costly for public water systems, especially those small systems serving rural areas. For instance, each household in northeastern Oklahoma would have to pay nearly $200 more a year if we fail to use common sense and move forward with the proposed rule. Worse yet, we don't know for certain what public health benefits, if any, will result. In fact the opposite could be true.

The proposed DBP rule is intended to force water suppliers to reduce the formation of disinfection by-products associated with the chlorination of drinking water. While there are a variety of water treatment techniques that can achieve this goal, most efficient approach is simply to reduce the application of chlorine or move away

from it altogether in favor of other disinfectants. Therein lies the problem, which I as a medical professional, find troubling.

For nearly a century, chlorination of drinking water has been widespread in the United States, virtually eliminating deadly waterborne diseases such as typhoid, cholera, dysentery, and hepatitis A. Chlorination is the standard treatment for 98% of our public water supplies because it is effective, efficient, and economical. However, if the D/DBP rule forces water suppliers to make major changes in water treatment methods, we could see increased microbial contamination of drinking water leading to higher rates of waterborne disease. This poses an obvious threat to public health, especially to vulnerable groups—infants, the elderly and those with compromised immune systems, such as cancer and AIDS patients.

Let me add that, of course, we need to address any potential long-term health risks associated with chemical disinfectants. However, in 1990, the International Agency for Research on Cancer (IARC), the research arm of the World Health Organization, evaluated the carcinogenicity of chlorinated drinking water, the IARC concluded that chlorinated drinking water is not a classifiable human carcinogen.

But we require a great deal more scientific research that moves beyond the hypothetical health risks identified in laboratory animals in order to clearly establish human health risks based. There is also a critical need for development of improved detection and measurements techniques to better quantify the occurrence and infection rates of waterborne parasites. Both this legislation and the EPA endorse funding additional research so that we can better understand the relative risks of chemical and microbial contamination.

Nevertheless, we already know that the public health risks from the various pathogens—bacteria, viruses, and protozoa—in drinking water far outweigh the hypothetical cancer risks associated with DBPs. Even EPA's own water experts warn that the "potential health risks associated with disinfection by-products pale in comparison with microbial risks."

Recent outbreaks of cryptosporidiosis in Milwaukee, Georgia and Nevada, along with boil-water advisories in a number of cities, including Washington, DC, highlight my strong belief that preventing waterborne disease must be a primary public health goal. And even though chlorination alone does not kill the "cryptosporidium" parasite, its effectiveness in other aspects of the water disinfection process cannot be overlooked.

This view also has been endorsed by the American Medical Association in a letter to this committee, which urged caution in changing current drinking water regulations without a thorough evaluation of the risks, costs, and benefits of using chlorine or alternative disinfectants in the water purification process. The AMA further noted that with potential human health risks and an estimated price tag of $4 billion, any rule revisions affecting our nation's drinking water should be based on sound scientific knowledge.

Furthermore, the Congressional Budget Office, in its assessment of the proposed D/DBP rule, pointed out its high cost and uncertain public health benefits. CBO estimated that full implementation of the new rule will be more expensive than all prior drinking regula-

tions combined. Of particularly concern, the CBO reports that highly yearly household costs will fall disproportionately on customers of small water systems, with increased annual water bills ranging up to $223 for those in systems serving populations of less than 100 to $186 for populations of 3,300 to 10,000. This will have an enormous impact on states like mine with large rural populations.

As for the health benefits, CBO states that "the degree to which the D/DBP rule would reduce risk of cancer is extremely uncertain." And, even as the EPA has moved forward to promulgate the D/DBP rule, some of its own water and public health experts have expressed reservations about its impact:

> Changes in water treatment to reduce disinfection by-products must be carefully evaluated in order that microbial risks are not increased. . . Economic analysis strongly supports control of microbial contaminants as a major public health contribution. By contrast, investment in expensive technology to reduce disinfection by-products would not appear to result in a commensurate contribution in reducing overall cancer risk.

Furthermore, I question the value of the "Right to Know" section contained in H.R. 3604. I believe the intention, to provide consumers with information regarding their drinking water, is thoughtful. However, I am convinced that such tactics will only destroy consumers' confidence in their drinking water supply. I also have severe reservations about estrogen screening. Again, I firmly believe these provisions were founded on good intention, but were based on emotion, not on sound scientific evidence. These examples reconfirm my thoughts that the Safe Drinking Water Acts of 1996 will indeed create new problems.

Congress must reauthorize the Safe Drinking Water Act. This legislation contains many worthwhile provisions such as allowing states and individual facilities to solve their own problems. The State Resolving Fund will also help address critical infrastructure needs.

Having said that, I do believe that we must take into account the very real concerns many share about the costs, risks, benefits, and scientific evidence of the Safe Drinking Water Act Amendments. As we can see, there are bound to be unintended consequences from the rule as presently written that could seriously compromise public health.

TOM A. COBURN.

APPENDIX

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, June 24, 1996.

Administrator CAROL M. BROWNER,
Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR BROWNER: As you know, the Committee on Commerce recently reported bipartisan legislation to strengthen and improve the Safe Drinking Water Act (SDWA). In the development of this legislation, it has come to our attention that many people in small communities consisting primarily of manufactured housing are provided drinking water through a water system that purchases finished water from a public water system.

There is some concern that the local distribution system in these communities may be subject to the requirements of the SDWA under section 1411 if the purchased water is submetered for the purpose of billing water to individual water customers—even if these systems are otherwise exempt from the SDWA. In these situations, it appears that many requirements of the SDWA could be duplicative, since the water is purchased directly from a regulated public water system.

Strong public health protection for all communities, both large and small, is the most important priority under the SDWA. However, provided that public health protection is maintained, another worthy goal—water conservation—is advanced through the installation of water meters on individual housing units. We are interested in ensuring that water conservation efforts are not impeded by duplicative or unnecessary SDWA requirements.

We would therefore like to solicit your opinion on whether EPA can provide flexibility within current regulations to avoid unnecessary or duplicative federal requirements that might stem from submetering by water systems. We are also interested as to whether EPA believes that States have enough flexiblility under current law to avoid duplicative and unnecessary compliance activities at the local level that may arise from water conservation practices such as submetering.

Thank you for your kind assistance to these matters.

Sincerely,

MICHAEL BILIRAKIS,
Health and Environment.
JOHN BRYANT,
Member, Subcommittee on Health and Environment.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, June 24, 1996.

Hon. MICHAEL BILIRAKIS,
Chairman, Subcommittee on Health and Environment.
Hon. JOHN BRYANT,
Member, Subcommittee on Health and Environment, Washington, DC.

DEAR CONGRESSMEN: Thank you for your letter of June 24, 1996, to Administrator Browner concerning drinking water safety related to small water systems that purchase water from public water systems regulated under the Safe Drinking Water Act (SDWA). We appreciate having this issue brought to our attention. The Environmental Protection Agency (EPA) agrees that submetering may be an appropriate means of encouraging water conservation, provided public health protection is maintained, and we support State flexibility to avoid duplicative or unnecessary compliance activities.

Generally, water systems that simply submeter finished water that is purchased from another public water system (which is covered by SDWA), and do not treat the water, are considered "consecutive" water systems under federal SDWA regulations. Under these regulations (specifically, at 40 CFR 141.29), States have the flexibility to adjust the monitoring and reporting requirements to avoid duplication of compliance activities. More broadly, we believe there is room within EPA regulations generally and within State determinations under Section 1411 to avoid duplicative or unnecessary compliance activities in the situations described in your letter concerning submetering, consistent with the public health objectives of the Act. Indeed, we expect that such discretion has been exercised in States over the last two decades.

We do not recommend changes to the "coverage" provisions of SDWA, since any changes are unlikely to accurately reflect the variety of circumstances that currently exist, or to anticipate all future arrangements. However, because of the issues you have raised, and because we have not recently reviewed State implementation approaches related to these issues, we do believe it would be useful for EPA to review existing guidance that the Agency has offered over the years to determine if that guidance needs to be updated.

Thank you for your interest in maintaining public health protection while advancing water conservation goals. I would be pleased to arrange a meeting between parties interested in this issue and EPA for the purposes of identifying possible improvements of EPA's guidance. If you have any further questions you may contact me, or your staff may contact Cynthia Dougherty, Director, Office of Ground Water and Drinking Water (202/260–5512).

Sincerely,

ROBERT PERCIASEPE,
Assistant Administrator.

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